



Queensland

Serious and Organised Crime Legislation Amendment Act 2016

Act No. 62 of 2016

An Act to amend the Bail Act 1980, the Child Protection (Offender Reporting) Act 2004, the Corrective Services Act 2006, the Crime and Corruption Act 2001, the Crime and Corruption Regulation 2015, the Criminal Code, the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013, the Criminal Proceeds Confiscation Act 2002, the Disability Services Act 2006, the District Court of Queensland Act 1967, the Drugs Misuse Act 1986, the Evidence Act 1977, the Liquor Act 1992, the Liquor Regulation 2002, the Motor Dealers and Chattel Auctioneers Act 2014, the Peace and Good Behaviour Act 1982, the Peace and Good Behaviour Regulation 2010, the Penalties and Sentences Act 1992, the Penalties and Sentences Regulation 2015, the Police Powers and Responsibilities Act 2000, the Police Powers and Responsibilities Regulation 2012, the Police Service Administration Act 1990, the Racing Act 2002, the Racing Integrity Act 2016, the Second-hand Dealers and Pawnbrokers Act 2003, the Security Providers Act 1993, the State Penalties Enforcement Regulation 2014, the Summary Offences Act 2005, the Tattoo Parlours Act 2013, the Tow Truck Act 1973, the Transport Operations (Passenger Transport) Act 1994, the Weapons Act 1990 and the Working with Children (Risk Management and Screening) Act 2000, to amend the legislation mentioned in schedule 1 and to make a regulation under the Criminal Code, for particular purposes

[Assented to 9 December 2016]



Queensland

Serious and Organised Crime Legislation Amendment Act 2016

Contents

		Page
Part 1	Preliminary	
1	Short title	33
2	Commencement	33
Part 2	Amendment of Bail Act 1980	
3	Act amended	33
4	Amendment of s 6 (Definitions)	34
5	Amendment of s 11 (Conditions of release on bail)	34
7	Amendment of s 16 (Refusal of bail)	34
8	Amendment of s 20 (Undertaking as to bail)	34
Part 3	Amendment of Child Protection (Offender Reporting) Act 2004	
9	Act amended	35
10	Amendment of sch 1 (Prescribed offences)	35
Part 4	Amendment of Corrective Services Act 2006	
11	Act amended	35
12	Amendment of s 12 (Prisoner security classification)	35
13	Amendment of s 13 (Reviewing prisoner's security classification)	36
14	Amendment of s 41 (Who may be required to give test sample)	36
15	Omission of ch 2, pt 2, div 6A (Criminal organisation segregation orders)	36
16	Amendment of s 71 (Reconsidering decision)	36
17	Amendment of s 178 (Definition for sdiv 2)	36
18	Amendment of s 181 (Parole eligibility date for prisoner serving term of imprisonment for life)	37
19	Amendment of s 181A (Parole eligibility date for prisoner serving term of imprisonment for life for a repeat serious child sex offence)	38
20	Amendment of s 182 (Parole eligibility date for serious violent offender)	

Contents

	38
21	Amendment of s 182A (Parole eligibility date for prisoner serving term of imprisonment for other particular serious offences)	39
22	Amendment of s 183 (Parole eligibility date for prisoner detained for a period directed by a judge under Criminal Law Amendment Act 1945, pt 3)	40
23	Amendment of s 184 (Parole eligibility date for other prisoners) .	41
24	Amendment of s 185B (Parole eligibility date for prisoner serving term of imprisonment for an offence against Weapons Act 1990, section 50, 50B or 65)	42
25	Omission of s 267A (Directions to identified participant in criminal organisation)	42
26	Omission of s 344AA (Commissioner may provide information about particular offender's participation in criminal organisation)	42
27	Omission of ss 350A and 350B	42
28	Insertion of new ch 7A, pt 9	43
	Part 9 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	490E Definition for part	43
	490F Prisoner classifications	43
	490G Keeping records	43
	490H Criminal organisation segregation orders	44
	490I Requirement for test sample before commencement	44
	490J Directions to identified participant	44
	490K Monitoring devices	45
29	Amendment of sch 1 (Sexual offences)	45
30	Amendment of sch 4 (Dictionary)	46
Part 5	Amendment of Crime and Corruption Act 2001	
31	Act amended	46
32	Amendment of s 25 (Commission's crime function)	46
33	Amendment of s 53 (Intelligence functions)	46
34	Replacement of ch 2, pt 4, div 2A, hdg	46
35	Amendment of s 55A (Authorising the commission)	47
36	Amendment of s 55B (Matters to which the reference committee must consider before granting an authorisation)	47
37	Amendment of s 55C (Reference committee may give commission directions about intelligence operations)	47
38	Replacement of ch 2, pt 4, div 2B (Public safety)	47
	Division 2B Immediate responses to threats to public safety	

	55D	Authorising immediate response	47
	55E	Matters reference committee must consider	48
	55F	Reference committee may give commission directions	49
39		Amendment of s 74 (Notice to produce for crime investigation, specific intelligence operation (crime) or witness protection function) . . .	50
40		Amendment of s 82 (Notice to attend hearing—general)	50
41		Amendment of s 85 (Notices requiring immediate attendance may be issued only by or with the approval of a Supreme Court judge) .	50
42		Insertion of new s 85A	51
	85A	Definitions for part	51
43		Insertion of new ss 88A–88C	52
	88A	Order in search warrant about information necessary to access information stored electronically	52
	88B	Order for access information after storage device has been seized	53
	88C	Compliance with order about information necessary to access information stored electronically	55
44		Amendment of s 91 (What search warrant must state)	55
45		Amendment of s 176 (Commission may hold hearings)	55
46		Amendment of s 185 (Refusal to produce—claim of reasonable excuse)	56
47		Amendment of s 190 (Refusal to answer question)	56
48		Amendment of s 199 (Punishment of contempt)	56
49		Amendment of s 201 (Commission must give evidence to defence unless court certifies otherwise)	58
50		Amendment of s 205 (Legal assistance for crime investigations)	58
51		Amendment of s 213 (Secrecy)	59
52		Amendment of s 270 (Delegation—chairperson)	59
53		Amendment of s 348 (Regulation-making power)	59
54		Omission of s 348A (Criteria for recommending an entity be declared a criminal organisation)	60
55		Insertion of new ch 8, pt 14	60
	Part 14	Serious and Organised Crime Legislation Amendment Act 2016	
	Division 1	General	
	427	Authorisation by chairperson of immediate response function	60
	428	Refusal to comply with notice to produce for fear of reprisal	

Contents

	61
429	Refusal to comply with attendance notice for fear of reprisal	61
430	Refusal to comply with requirement to produce stated document or thing for fear of reprisal	62
431	Refusal to answer question for fear of reprisal	62
432	Punishment for contempt	62
433	Commission must give evidence to defence	63
Division 2	Proceedings for offences and contempts relating to fear of reprisal	
434	Definitions for division	64
435	Application of division	65
436	Application to Supreme Court	66
437	Hearing—offence	67
438	Hearing—contempt	67
439	Appeals	68
440	No cause of action	68
56	Amendment of sch 2 (Dictionary)	68
Part 6	Amendment of Crime and Corruption Regulation 2015	
57	Regulation amended	69
58	Omission of s 20 (Entities declared to be criminal organisations)	69
59	Omission of sch 2 (Entities declared to be criminal organisations)	69
Part 7	Amendment of Criminal Code	
Division 1	Preliminary	
60	Code amended	70
Division 2	Amendments commencing on assent	
61	Amendment of s 1 (Definitions)	70
62	Amendment of s 60A (Participants in criminal organisation being knowingly present in public places)	71
63	Amendment of s 60B (Participants in criminal organisation entering prescribed places and attending prescribed events)	71
64	Omission of s 60C (Participants in criminal organisation recruiting persons to become participants in the organisation)	72
65	Amendment of s 61 (Riot)	72
66	Amendment of s 72 (Affray)	72
67	Insertion of new s 76	73
76	Recruiting person to become participant in criminal organisation	73

68	Amendment of s 86 (Obtaining of or disclosure of secret information about the identity of informant)	74
69	Amendment of s 87 (Official corruption)	75
70	Amendment of s 92A (Misconduct in relation to public office) . . .	76
71	Amendment of s 119B (Retaliation against or intimidation of judicial officer, juror, witness etc.)	76
72	Amendment of s 122 (Corruption of jurors)	77
73	Amendment of s 127 (Corruption of witnesses)	77
74	Amendment of s 140 (Attempting to pervert justice)	77
75	Insertion of new s 205A	78
	205A Contravening order about information necessary to access information stored electronically	78
76	Amendment of s 207A (Definitions for this chapter)	78
77	Amendment of s 210 (Indecent treatment of children under 16) .	80
78	Amendment of s 213 (Owner etc. permitting abuse of children on premises)	80
79	Amendment of s 215 (Carnal knowledge with or of children under 16)	81
80	Amendment of s 217 (Procuring young person etc. for carnal knowledge)	81
81	Amendment of s 218 (Procuring sexual acts by coercion etc.) . .	82
82	Amendment of s 218A (Using internet etc. to procure children under 16)	82
83	Amendment of s 218B (Grooming children under 16)	82
84	Amendment of s 219 (Taking child for immoral purposes)	83
85	Amendment of s 227B (Distributing prohibited visual recordings)	83
86	Amendment of s 228 (Obscene publications and exhibitions) . .	83
87	Amendment of s 228A (Involving child in making child exploitation material)	84
88	Amendment of s 228B (Making child exploitation material)	84
89	Amendment of s 228C (Distributing child exploitation material) .	85
90	Amendment of s 228D (Possessing child exploitation material) .	86
91	Insertion of new ss 228DA–228DC	86
	228DA Administering child exploitation material website . . .	86
	228DB Encouraging use of child exploitation material website	88
	228DC Distributing information about avoiding detection . . .	88
92	Amendment of s 228E (Defences for ss 228A–228D)	89

Contents

93	Amendment of s 228G (Forfeiture of child exploitation material etc.)	89
94	Amendment of s 228H (Possession etc. of child exploitation material by law enforcement officer)	89
95	Amendment of s 229B (Maintaining a sexual relationship with a child)	90
96	Amendment of s 229G (Procuring engagement in prostitution)	90
97	Amendment of s 229H (Knowingly participating in provision of prostitution)	90
98	Amendment of s 229HB (Carrying on business of providing unlawful prostitution)	91
99	Amendment of s 229K (Having an interest in premises used for prostitution etc.)	91
100	Amendment of s 229L (Permitting young person etc. to be at place used for prostitution)	91
101	Amendment of s 302 (Definition of murder)	92
102	Amendment of s 303 (Definition of manslaughter)	92
103	Amendment of s 305 (Punishment of murder)	92
104	Amendment of s 306 (Attempt to murder)	93
105	Amendment of s 307 (Accessory after the fact to murder)	93
106	Amendment of s 308 (Threats to murder in document)	93
107	Amendment of s 309 (Conspiring to murder)	94
108	Amendment of s 310 (Punishment of manslaughter)	94
109	Amendment of s 314A (Unlawful striking causing death)	94
110	Amendment of s 317 (Acts intended to cause grievous bodily harm and other malicious acts)	95
111	Amendment of s 317A (Carrying or sending dangerous goods in a vehicle)	95
112	Amendment of s 320 (Grievous bodily harm)	95
113	Amendment of s 320A (Torture)	96
114	Amendment of s 321 (Attempting to injure by explosive or noxious substances)	96
115	Amendment of s 339 (Assaults occasioning bodily harm)	97
116	Amendment of s 340 (Serious assaults)	97
117	Amendment of s 349 (Rape)	98
118	Amendment of s 350 (Attempt to commit rape)	98
119	Amendment of s 351 (Assault with intent to commit rape)	98
120	Amendment of s 352 (Sexual assaults)	99
121	Amendment of s 354 (Kidnapping)	99

122	Amendment of s 354A (Kidnapping for ransom)	99
123	Amendment of s 359 (Threats)	100
124	Amendment of s 359E (Punishment of unlawful stalking)	100
125	Amendment of s 398 (Punishment of stealing)	101
126	Amendment of s 408C (Fraud)	101
127	Amendment of s 408D (Obtaining or dealing with identification information)	102
128	Amendment of s 409 (Definition of robbery)	103
129	Amendment of s 411 (Punishment of robbery)	103
130	Amendment of s 412 (Attempted robbery)	103
131	Amendment of s 415 (Extortion)	104
132	Amendment of s 419 (Burglary)	104
133	Amendment of s 433 (Receiving tainted property)	104
134	Amendment of s 552A (Charges of indictable offences that must be heard and decided summarily on prosecution election)	105
135	Amendment of s 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial)	105
136	Amendment of s 552D (When Magistrates Court must abstain from jurisdiction)	105
137	Amendment of s 590AD (Definitions for ch div 3)	106
138	Amendment of s 708A (Criteria for recommending an entity be declared a criminal organisation)	106
139	Insertion of new pt 9, ch 96	107
	Chapter 96 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	736 Review of consorting provisions	107
	737 Regulation made by the Serious and Organised Crime Legislation Amendment Act 2016	109
Division 3	Amendments commencing 3 months after assent	
140	Amendment of s 1 (Definitions)	109
141	Insertion of new pt 2, ch 9A	110
	Chapter 9A Consorting	
	77 Definitions for chapter	110
	77A Meaning of consort	112
	77B Habitually consorting with recognised offenders	112
	77C Particular acts of consorting to be disregarded	113
Division 4	Amendments commencing 2 years after assent	
142	Amendment of s 1 (Definitions)	116

Contents

143	Omission of s 60A (Participants in criminal organisation being knowingly present in public places)	116
144	Omission of s 60B (Participants in criminal organisation entering prescribed places and attending prescribed events)	117
145	Omission of s 708A (Criteria for recommending an entity be declared a criminal organisation)	117
146	Insertion of new s 738	117
	738 Offences against ss 60A and 60B charged before repeal	117
Part 8	Amendment of Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013	
147	Act amended	118
148	Amendment of s 2 (Commencement)	118
149	Omission of ss 57–63	118
150	Omission of ss 65–68	118
151	Omission of ss 70 and 71	119
152	Omission of pt 14 (Amendment of Queensland Building Services Authority Act 1991)	119
153	Omission of pt 24 (Amendment of Work Health and Safety Act 2011)	119
Part 9	Amendment of Criminal Proceeds Confiscation Act 2002	
154	Act amended	120
155	Amendment of s 250 (Money laundering)	120
156	Amendment of s 251 (Charging of money laundering)	120
157	Insertion of new ch 12, pt 5	121
	Part 5 Transitional provision for Serious and Organised Crime Legislation Amendment Act 2016	
	295 Relevant money laundering proceedings started before commencement	121
Part 10	Amendment of Disability Services Act 2006	
158	Act amended	121
159	Amendment of sch 2 (Current serious offences)	122
160	Amendment of sch 4 (Current disqualifying offences)	122
Part 11	Amendment of District Court of Queensland Act 1967	
161	Act amended	122
162	Amendment of s 61 (Criminal jurisdiction if maximum penalty more than 20 years)	123
Part 12	Amendment of Drugs Misuse Act 1986	

163	Act amended	123
164	Amendment of s 5 (Trafficking in dangerous drugs)	124
165	Amendment of s 6 (Supplying dangerous drugs)	124
166	Amendment of s 7 (Receiving or possessing property obtained from trafficking or supplying)	124
167	Amendment of s 8 (Producing dangerous drugs)	125
168	Amendment of s 9B (Supplying relevant substances or things)	125
169	Amendment of s 9C (Producing relevant substances or things)	126
170	Amendment of s 9D (Trafficking in relevant substances or things)	126
171	Amendment of s 13 (Certain offences may be dealt with summarily)	126
Part 13	Amendment of Evidence Act 1977	
172	Act amended	127
173	Amendment of s 21A (Evidence of special witnesses)	127
174	Insertion of new pt 9, div 7	128
	Division 7 Serious and Organised Crime Legislation Amendment Act 2016	
148	Special witnesses	128
Part 14	Amendment of Liquor Act 1992	
175	Act amended	128
176	Amendment of s 4 (Definitions)	128
177	Omission of s 11B (Particular entities not exempt)	130
178	Amendment of s 13 (Exemption for the sale of liquor at fundraising event)	130
179	Amendment of pt 2, hdg (Jurisdiction of tribunal and application of Judicial Review Act 1991)	130
180	Amendment of s 21 (Jurisdiction and powers of tribunal)	130
181	Omission of pt 2, div 3 (Review of decisions relating to particular disqualified persons)	131
182	Replacement of ss 47B and 47C	131
	47B Exchange of information	131
	47C Police commissioner to notify of charges	132
183	Amendment of s 107 (Restrictions on grant of licence or permit)	134
184	Amendment of s 107E (Suitability of applicant for adult entertainment permit)	135
185	Amendment of s 107F (Application to be referred to police commissioner)	136

Contents

186	Amendment of s 129 (Applications to continue trading in certain circumstances)	136
187	Amendment of s 134 (Cancellation, suspension or variation of permits)	137
188	Replacement of ss 134A and 134B	137
	134A Ground for taking relevant action relating to adult entertainment permits	137
	134B Show cause notice	138
189	Amendment of s 134C (Decision about relevant action relating to permit)	138
190	Omission of s 134D (Urgent suspension)	139
191	Amendment of s 135 (Summary cancellation, suspension or variation)	139
192	Amendment of s 136 (Grounds for disciplinary action)	139
193	Amendment of s 137 (Procedure for taking disciplinary action in relation to licence)	140
194	Amendment of s 137A (Decision about disciplinary action)	140
195	Amendment of s 137C (Urgent suspension)	140
196	Omission of s 137CA (Immediate cancellation of particular licences)	140
197	Omission of s 139B (Urgent suspension of approval)	140
198	Replacement of s 139C (Show cause notice for withdrawal of approval)	140
	139C Show cause notice for withdrawal of approval	141
199	Amendment of s 139D (Decision about withdrawing approval of relevant agreement)	141
200	Omission of s 139E (Immediate withdrawal of approval and direction to terminate relevant agreement)	142
201	Amendment of s 139F (Requirement to terminate relevant agreement on withdrawal of approval)	142
202	Amendment of s 142R (Deciding application)	142
203	Omission of s 142ZAA (Immediate cancellation—identified participants)	143
204	Amendment of s 142ZK (Deciding application)	143
205	Amendment of s 142ZO (Police commissioner’s information report)	144
206	Amendment of s 142ZQ (Grounds for suspension or cancellation)	144
207	Omission of s 142ZQA (Immediate cancellation of approval—identified participants)	145

208	Amendment of pt 6, div 5, hdg (Prohibited items for declared criminal organisations)	145
209	Amendment of s 173EA (Definitions for div 5)	145
210	Insertion of new s 173EAA	146
	173EAA Identified organisations	146
211	Amendment of s 173EB (Exclusion of persons wearing or carrying prohibited items)	148
212	Omission of s 173EC (Entering and remaining in licensed premises wearing or carrying a prohibited item)	149
213	Amendment of s 173ED (Removal of person wearing or carrying prohibited item from premises)	149
214	Amendment of s 173EQ (Approval of persons to operate ID scanning systems)	150
215	Omission of s 228B (Disqualification from holding licence, permit or approval—identified participants and criminal organisations) . . .	151
216	Insertion of new pt 12, div 18	151
	Division 18 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	342 Applications not finally decided	151
	343 Show cause process not finally decided	152
	344 Proceedings not finally decided	152
	345 First regulation under s 173EAA(1) exempt from particular requirements	153
Part 15	Amendment of Liquor Regulation 2002	
217	Regulation amended	154
218	Insertion of new pt 1C	154
	Part 1C Identified organisations	
	3G Entities declared to be identified organisations	154
Part 16	Amendment of Motor Dealers and Chattel Auctioneers Act 2014	
219	Act amended	156
220	Amendment of s 19 (Particular persons can not make application)	156
221	Amendment of s 21 (Suitability of applicants and licensees—individuals)	156
222	Amendment of s 22 (Suitability of applicants and licensees—corporations)	157
223	Amendment of s 23 (Chief executive must consider suitability of applicants and licensees)	157
224	Amendment of s 26 (Investigations about suitability of applicants, nominated persons and licensees)	158

Contents

225	Amendment of s 27 (Notice of change in criminal history)	158
226	Amendment of s 29 (Use of information obtained under s 26 or s 27)	159
227	Omission of ss 30 and 31	159
228	Amendment of s 36 (Chief executive may issue or refuse to issue licence)	159
229	Amendment of s 44 (Chief executive may renew or refuse to renew licence)	159
230	Amendment of s 48 (Chief executive may restore or refuse to restore licence)	159
231	Amendment of s 53 (Chief executive may appoint or refuse to appoint substitute licensee)	160
232	Amendment of s 58 (Return of licence for suspension or cancellation)	160
233	Amendment of s 62 (Immediate cancellation)	160
234	Omission of s 63 (Cancellation of motor dealer licence—identified participant)	160
235	Amendment of s 69 (Licensees to notify chief executive of changes in circumstances)	161
236	Amendment of s 155 (Particular persons can not make application)	161
237	Amendment of s 157 (Suitability of applicants)	161
238	Amendment of s 158 (Chief executive must consider suitability of applicants)	161
239	Amendment of s 159 (Investigations about suitability of applicants)	162
240	Amendment of s 160 (Notice of change in criminal history)	162
241	Amendment of s 162 (Use of information obtained under s 159 or s 160)	163
242	Omission of ss 163 and 164	163
243	Amendment of s 166 (Chief executive may issue or refuse to issue registration certificate)	163
244	Amendment of s 169 (Chief executive may renew or refuse to renew registration certificate)	164
245	Amendment of s 172 (Chief executive may restore or refuse to restore registration certificate)	164
246	Amendment of s 178 (Return of registration certificate for suspension or cancellation)	164
247	Amendment of s 181 (Immediate cancellation)	164
248	Omission of s 182 (Cancellation—identified participant)	165
249	Amendment of s 188 (Motor salespersons to notify chief executive of changes in circumstances)	165

250	Omission of pt 7, div 2	165
251	Insertion of new ss 230A and 230B	165
	230A Exchange of information	165
	230B Confidentiality	166
252	Insertion of new pt 11, div 1, hdg	168
253	Insertion of new pt 11, div 2	168
	Division 2 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	238 Definitions for division	168
	239 Applications not finally decided	169
	240 Proceedings not finally decided	169
	241 Reapplying for licences and registration certificates	170
254	Amendment of sch 2 (Decisions subject to review)	171
255	Amendment of sch 3 (Dictionary)	171
Part 17	Amendment of Peace and Good Behaviour Act 1982	
256	Act amended	173
257	Insertion of new ss 3 and 3A	173
	3 Definitions	173
	3A Objects of Act	173
258	Replacement of pt 2, hdg (Orders to keep the peace and be of good behaviour)	175
259	Amendment of s 4 (Complaint in respect of breach of peace)	175
260	Amendment of s 6 (Magistrates Court may make order)	175
261	Amendment of s 7 (Where defendant does not appear)	176
262	Amendment of s 8 (Application of Justices Act)	176
263	Replacement of pt 3, hdg (Offence provisions)	176
264	Amendment of s 10 (Offence for breach of order)	176
265	Amendment of s 11 (Court may make further order)	177
266	Renumbering of ss 3A–12	177
267	Replacement of pt 4 (Miscellaneous provisions)	177
	Part 3 Public safety orders	
	Division 1 Preliminary	
	14 Definition for part	177
	15 Object of part	178
	16 Peaceful Assembly Act 1992 unaffected	178
	Division 2 Making of orders by commissioned officers	

Contents

17	Commissioned officer may make public safety order	178
18	Conditions	180
19	Particular orders must be authorised by court	180
20	Content of order	183
21	Service of order	184
22	Urgent orders	185
23	Duration	186
24	Records to be kept	187
Division 3	Making of orders by court	
25	Senior police officer may apply for public safety order	188
26	Response by respondent	189
27	Court may make public safety order	189
28	Conditions	191
29	Duration	192
30	Revocation or variation	193
Division 4	Police powers for enforcing public safety orders	
31	Prevention of contravention of public safety order . .	194
Division 5	Offence	
32	Contravention of public safety order	196
Part 4	Restricted premises orders	
Division 1	Preliminary	
33	Definitions for part	197
Division 2	Making of orders	
34	Senior police officer may apply for restricted premises order	199
35	Response by owner or occupier	200
36	Court may make restricted premises order	201
37	Conditions	201
38	Duration	202
39	Revocation or variation	203
Division 3	Prescribed places	
40	Definitions for division	204
41	Regulation-making power for prescribed places	204
42	Prescribed place taken to be restricted premises for 2 years	205
43	Extension of initial period	205

44	Response by owner or occupier	206
45	Court may make extension order	207
46	Effect of extension order	208
47	Duration	208
48	Revocation or variation	209
Division 4	Police powers for enforcing restricted premises orders	
49	Searching restricted premises without warrant	210
Division 5	Applications for return of prohibited items	
50	Application to court by owner for return of prohibited item	212
51	Court may order return of prohibited item	212
Division 6	Forfeiture of prohibited items	
52	Application of division	214
53	Forfeiture of prohibited item	214
Division 7	Offence	
54	Offence by owner or occupier of restricted premises	215
Division 8	Evidentiary matters	
55	Disorderly activity taken to have happened if obstruction or fortification	216
Part 5	Fortification removal orders	
Division 1	Preliminary	
56	Definitions for part	218
57	Relationship with Sustainable Planning Act 2009 and development approvals	218
Division 2	Making of orders	
58	Senior police officer may apply for fortification removal order	219
59	Response by owner or occupier	220
60	Court may make fortification removal order	221
61	Conditions	222
62	When order takes effect	222
63	Revocation or variation	223
Division 3	Police powers for enforcing fortification removal orders	
64	Application of division	224
65	Powers for removing and modifying fortifications ...	224
66	Procedure for entry to fortified premises	225

Contents

67	Requirements for entry to buildings on fortified premises	226
68	Exemption from compliance with noise standards ..	227
Division 4	Forfeiture of fortifications	
69	Application of division	227
70	Definitions for division	227
71	Forfeiture of removed fortification	228
72	Recovery of enforcement costs	229
73	Compensation from State to particular owners	229
74	Recovery of paid compensation from responsible person	230
Division 5	Offence	
75	Hindering removal or modification of a fortification ..	231
Division 6	Evidentiary matters	
76	Power to give stop and desist notice	232
77	Noncompliance with stop and desist notice taken to be evidence of fortification	233
Part 6	Court proceedings	
Division 1	Jurisdiction	
78	Conferral of jurisdiction	233
79	Constitution of Magistrates Court	233
Division 2	Proceedings for orders	
80	General application of rules of court	234
81	Standard of proof	234
82	Service by public notice	234
83	Service affidavit that must be filed	235
Division 3	Proceedings for offences	
84	Summary proceedings for offences	236
85	Proceedings for indictable offence	236
86	When summary proceeding may start	237
Division 4	Appeals	
87	Definition for division	237
88	Who may appeal	237
89	How to start appeal	238
90	Effect of particular orders not stayed by appeal	239
91	Hearing procedures	240

	92	Powers of appellate court	240
	Part 7	General	
	Division 1	General safeguards for things in possession of police service	
	93	Application of division	241
	94	Receipt for seized or removed thing	241
	95	Responsibilities of police officer taking possession of thing	242
	Division 2	Miscellaneous	
	96	Delegation by commissioner	243
	97	Protection from liability	243
	98	Review of Act	243
	99	Approved forms	245
	100	Regulation-making power	245
	Schedule 1	Dictionary	245
Part 18		Amendment of Peace and Good Behaviour Regulation 2010	
268		Regulation amended	250
269		Insertion of new s 11A	250
	11A	Places that are prescribed places—Act, s 41	250
Part 19		Amendment of Penalties and Sentences Act 1992	
270		Act amended	251
271		Amendment of s 3 (Purposes)	251
272		Amendment of s 4 (Definitions)	252
273		Amendment of s 9 (Sentencing guidelines)	253
274		Amendment of s 15 (Information or submissions for sentence)	254
275		Amendment of s 160 (Definitions for div 3)	254
276		Amendment of s 160A (Application of ss 160B–160D)	255
277		Insertion of new s 160AA	255
	160AA	Reduction of minimum period of imprisonment for particular offenders	255
278		Amendment of s 160B (Sentence of 3 years or less and not a serious violent offence or sexual offence)	256
279		Insertion of new pt 9D	257
	Part 9D	Serious and organised crime	
	Division 1	Preliminary	
	161N	Definitions for part	257
	161O	Meaning of criminal organisation	259

Contents

161P	Meaning of participant	261
161Q	Meaning of serious organised crime circumstance of aggravation	262
Division 2	Term of imprisonment for particular offenders	
161R	Court must impose term of imprisonment	263
161S	Cooperation with law enforcement agencies	265
Division 3	Control orders	
Subdivision 1	Making of orders	
161T	Court may make control order whether or not conviction recorded or other order made	266
161U	Conditions	267
161V	When court must make order	269
161W	When court may make order—offender who was participant in criminal organisation	269
161X	When court may make order—offender convicted of habitual consorting	270
161Y	When court may make order—offender convicted of contravening order	271
161Z	Control order to be explained	271
161ZA	Offender subject to existing control order	272
161ZB	Duration	272
161ZC	Effect if offender is detained on remand or imprisoned	273
Subdivision 2	Amendment and revocation of orders	
161ZD	Application for amendment or revocation	273
161ZE	Court may amend order or remit application	275
161ZF	Court may revoke order	276
161ZG	Order amending or revoking control order to be given to interested persons	277
Subdivision 3	Restrictions on use of particular information	
161ZH	Restrictions	277
Subdivision 4	Enforcement	
161ZI	Contravention of order	278
161ZJ	Initial power to search and seize particular things	281
161ZK	Things seized within the first 24 hours	283
161ZL	Police powers for preventing contravention of control order	283
161ZM	Authorised corrective services officer may give direction	285
161ZN	Proceeding after order no longer in force	285

	161ZO	Charge must be heard and decided summarily on prosecution election	286
	161ZP	Constitution of Magistrates Court	286
	161ZQ	When Magistrates Court must abstain from jurisdiction	286
	161ZR	Charge may be heard and decided where defendant arrested or served	286
	161ZS	Time for prosecution	287
	161ZT	Maximum penalty for offence dealt with summarily . .	287
	161ZU	Appeals against decision to decide charge summarily	287
	Subdivision 5 Corresponding control orders		
	161ZV	Definitions for subdivision	288
	161ZW	Regulation may prescribe orders	288
	161ZX	Application for registration of order	288
	161ZY	Registration of order	289
	161ZZ	Referral of order to court for adaptation or modification	290
	161ZZA	Action by the registrar and commissioner after registration of order	292
	161ZZB	Effect of amended order if respondent not notified of amendment	292
	161ZZC	Amendment or cancellation of registered order	293
	161ZZD	Operation of order not affected	294
	Subdivision 6 Miscellaneous		
	161ZZE	Order not affected by appeal	294
280		Amendment of s 171 (Review—periodic)	294
281		Amendment of s 187 (Disqualification from holding Queensland driver licence)	295
282		Insertion of new pt 14, div 16	295
	Division 16 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016		
	Subdivision 1 Transitional provisions for repeal of Vicious Lawless Association Disestablishment Act 2013		
	243	Definitions for subdivision	295
	244	Application of subdivision	296
	245	Application to Supreme Court to reopen sentencing proceedings	296
	246	Supreme Court may reopen sentencing proceedings	297
	247	Appeals	298
	248	No cause of action	298

Contents

	Subdivision 2	Other transitional provisions	
	249	Making of control order for offender convicted of committing indictable offence before commencement	299
	250	Application of amended s 187	299
	251	Application of s 161Q to particular prescribed offences	299
283		Amendment of sch 1 (Serious violent offences)	300
284		Insertion of new sch 1C	300
	Schedule 1C	Prescribed offences	300
Part 20		Amendment of Penalties and Sentences Regulation 2015	
285		Regulation amended	305
286		Insertion of new s 9A	305
	9A	Corresponding control orders—Act, s 161ZW	306
Part 21		Amendment of Police Powers and Responsibilities Act 2000	
Division 1		Preliminary	
287		Act amended	306
Division 2		Amendments commencing on assent	
288		Amendment of s 30 (Prescribed circumstances for searching persons without warrant)	307
289		Amendment of s 31 (Searching vehicles without warrant)	307
290		Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)	307
291		Amendment of ch 4A hdg (Motor vehicle forfeiture for particular criminal organisation offences)	308
292		Replacement of s 123B (Meaning of criminal organisation offence)	308
	123B	Meaning of criminal organisation offence	308
293		Amendment of s 123G (Impounding motor vehicles for criminal organisation offence)	309
294		Amendment of s 123X (Decision on application for release of impounded motor vehicle on basis of severe hardship)	309
295		Amendment of s 123Z (Decision on application for release of impounded motor vehicle on basis criminal organisation offence happened without owner’s consent)	309
296		Amendment of s 123ZB (Decision on application for release of impounded motor vehicle on basis that offender not a participant in a criminal organisation)	309
297		Amendment of s 123ZS (State’s liability to pay costs of impounding)	310
298		Amendment of s 123ZX (Release of motor vehicle if driver found not guilty etc.)	310

299	Amendment of s 123ZZC (Compensation for disposal of motor vehicle if driver found not guilty etc.)	310
300	Amendment of s 150AA (Definitions)	310
301	Amendment of s 150 (Search warrant application)	312
302	Amendment of s 154 (Order in search warrant about information necessary to access information stored electronically)	312
303	Insertion of new ss 154A and 154B	313
	154A Order for access information after storage device has been seized	313
	154B Compliance with order about information necessary to access information stored electronically	315
304	Amendment of s 156 (What search warrant must state)	315
305	Amendment of s 180 (Production notices)	316
306	Amendment of s 181 (Issue of production notice)	316
307	Amendment of s 754 (Offence for driver of motor vehicle to fail to stop motor vehicle)	316
308	Amendment of sch 6 (Dictionary)	316
Division 3	Amendments commencing 3 months after assent	
309	Amendment of s 29 (Searching persons without warrant)	318
310	Amendment of s 30 (Prescribed circumstances for searching persons without warrant)	318
311	Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)	318
312	Amendment of s 40 (Person may be required to state name and address)	318
313	Amendment of s 41 (Prescribed circumstances for requiring name and address)	319
314	Insertion of new s 41A	319
	41A Power to require identifying particulars of person for official warning for consorting	319
315	Insertion of new s 43B	320
	43B Power to require date of birth of person for official warning for consorting	321
316	Insertion of new ch 2, pt 6A	321
	Part 6A Prevention of criminal consorting	
	53BAA Definitions for part	322
	53BAB Part does not apply to child	323
	53BAC Police powers for giving official warning for consorting	323
	53BAD Effect of official warning for consorting	325

Contents

	53BAE	Prevention of consorting with recognised offender . . .	326
317		Amendment of s 60 (Stopping vehicles for prescribed purposes)	327
318		Omission of ch 4A (Motor vehicle forfeiture for criminal organisation offences)	327
319		Amendment of s 150 (Search warrant application)	328
320		Replacement of s 151 (Issue of search warrant)	328
	151	Issue of search warrant	328
321		Amendment of s 156 (What search warrant must state)	329
322		Amendment of s 686 (Application of pt 3)	329
323		Amendment of s 740 (Public interest monitor)	330
324		Amendment of s 742 (Monitor’s functions)	330
325		Amendment of s 743 (Monitor’s annual report)	331
326		Amendment of sch 2 (Relevant offences for controlled operations and surveillance device warrants)	332
327		Amendment of sch 6 (Dictionary)	332
Part 22		Amendment of Police Powers and Responsibilities Regulation 2012	
328		Regulation amended	333
329		Amendment of sch 9 (Responsibilities code)	334
	52A	Taking identifying particulars for official warning for consorting—Act, s 679(1)	334
	52B	Official warnings for consorting—Act, s 679(1)	335
	52C	Powers for public safety orders—Act, s 679(1)	335
	52D	Powers for restricted premises orders—Act, s 679(1)	336
	52E	Powers for fortification removal orders—Act, s 679(1)	336
	52F	Taking of prohibited items from restricted premises or fortifications from fortified premises—Act, s 679(1)	337
	52G	Stop and desist notices—Act, s 679(1)	338
Part 23		Amendment of Police Service Administration Act 1990	
330		Act amended	338
331		Omission of pt 10, div 1, sdiv 1A (Disclosure of criminal histories relating to criminal organisations)	338
332		Amendment of pt 10, div 1, sdiv 2, hdg (Other criminal history disclosure provisions)	338
333		Amendment of s 10.2E (Relationship to other laws)	338
Part 24		Amendment of Racing Act 2002	
334		Act amended	339
335		Amendment of s 148 (Definitions for div 1)	339
336		Amendment of s 149 (Offence to disclose confidential information or	

	copy background document)	339
337	Amendment of sch 1 (Dictionary)	339
Part 25	Amendment of Racing Integrity Act 2016	
338	Act amended	340
339	Amendment of s 81 (Suitability of applicants for racing bookmaker's licence)	340
340	Amendment of s 83 (Other matters about suitability)	340
341	Amendment of s 86 (Conditions for granting application)	340
342	Omission of s 88 (Information about whether persons are identified participants in criminal organisations)	340
343	Amendment of s 89 (Criminal history reports for investigations)	341
344	Amendment of s 91 (Decision on application)	341
345	Amendment of s 96 (Investigations into suitability of licence holder)	341
346	Amendment of s 97 (Investigation into suitability of associate of licence holder)	341
347	Amendment of s 98 (Criminal history report for investigation)	342
348	Insertion of new s 98A	342
	98A Exchange of information	342
349	Amendment of s 101 (Grounds for cancellation)	343
350	Omission of s 102 (Immediate cancellation of racing bookmaker's licence)	344
351	Amendment of s 103 (Show cause notice)	344
352	Amendment of s 106 (Cancellation)	344
353	Amendment of s 107 (Return of cancelled racing bookmaker's licence)	344
354	Amendment of s 108 (Censuring licence holder)	345
355	Omission of ch 4, pt 2, div 7 (Matters relating to review of decisions)	345
356	Amendment of s 211 (Definitions for division)	345
357	Amendment of s 212 (Offence to disclose confidential information or copy background document)	345
358	Replacement of ch 8 hdg	346
359	Insertion of new ch 9	346
	Chapter 9 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	294 Applications not finally decided	346
	295 Show cause process not finally decided	347
	296 Proceedings not finally decided	347

Contents

360	Amendment of sch 1 (Dictionary)	349
Part 26	Amendment of Second-hand Dealers and Pawnbrokers Act 2003	
361	Act amended	350
362	Amendment of s 7 (Suitability of applicants and licensees)	350
363	Amendment of s 8 (Investigations about suitability of applicants and licensees)	351
364	Replacement of s 9 (Confidentiality of report or information provided by commissioner of police service)	351
	9 Notice of change in criminal history	352
	9A Use of information obtained under s 8 or 9	353
365	Amendment of s 12 (Decision on application for a licence)	353
366	Amendment of s 15 (Decision on application for renewal or restoration of a licence)	353
367	Amendment of s 19 (Grounds for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence)	354
368	Omission of s 20A (Immediate cancellation and return of licence)	354
369	Amendment of s 21 (Return of licence)	354
370	Insertion of new s 21A	355
	21A Automatic cancellation	355
371	Amendment of s 27 (Change of licensee’s home address)	355
372	Omission of ss 107A and 107B	356
373	Insertion of new ss 111 and 112	356
	111 Exchange of information	356
	112 Confidentiality	357
374	Insertion of new pt 9, div 5	359
	Division 5 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	140 Applications not finally decided	359
	141 Proceedings not finally decided	359
375	Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)	360
376	Amendment of sch 3 (Dictionary)	361
Part 27	Amendment of Security Providers Act 1993	
377	Act amended	362
378	Amendment of s 11 (Entitlement to licences—individuals)	362
379	Amendment of s 12 (Inquiries about person’s appropriateness to hold licence)	363
380	Amendment of s 12AA (Costs of criminal history report)	364

381	Amendment of s 12A (Notice of change in criminal history)	364
382	Omission of s 12B (Commissioner may give investigative information)	365
383	Amendment and renumbering of s 12C (Use of information obtained under s 12, 12A or 12B)	365
384	Amendment of s 13 (Entitlement to licences—corporations or firms)	366
385	Amendment of s 14 (Decision on application)	367
386	Amendment of s 21 (Grounds for suspension, cancellation or refusal to renew)	367
387	Amendment of s 22 (Procedure for suspension, cancellation or refusal to renew)	368
388	Omission of s 23A (Cancellation of licence—identified participant in criminal organisation)	368
389	Replacement of s 24 (Automatic cancellation on conviction) . . .	368
	24 Automatic cancellation	368
390	Omission of ss 26A and 26B	369
391	Replacement of s 48 (Confidentiality of information)	369
	48 Exchange of information	369
	48A Confidentiality	370
392	Insertion of new pt 10	371
	Part 10 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	69 Applications not finally decided	372
	70 Show cause process not finally decided	372
	71 Proceedings not finally decided	372
393	Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)	374
394	Amendment of sch 2 (Dictionary)	374
Part 28	Amendment of State Penalties Enforcement Regulation 2014	
395	Regulation amended	375
396	Amendment of sch 1 (Infringement notice offences and fines for nominated laws)	375
Part 29	Amendment of Summary Offences Act 2005	
397	Act amended	376
398	Insertion of new pt 2, div 1B	377
	Division 1B Offence about wearing or carrying particular clothing, jewellery or accessories in public places	
	10B Objects of division	377

Contents

	10C	Wearing or carrying prohibited item in a public place	377
	10D	Defence for s 10C	378
	10E	Forfeiture of prohibited item to which offence relates	378
Part 30		Amendment of Tattoo Parlours Act 2013	
Division 1		Preliminary	
399		Act amended	379
Division 2		Amendments commencing on assent	
400		Amendment of s 11 (Licence applications)	379
401		Amendment of s 18 (Term of licence)	379
402		Amendment of s 33 (Suspension of licence)	379
403		Amendment of s 34 (Cancellation of licence)	380
404		Amendment of s 41 (Application for exhibition permit)	380
405		Amendment of s 42 (Decision about application for exhibition permit)	380
406		Amendment of s 44 (Application for visiting tattooist permit)	380
407		Amendment of s 45 (Decision about application for visiting tattooist permit)	380
408		Amendment of s 56 (Review by QCAT of particular decisions of chief executive)	381
409		Amendment of sch 1 (Dictionary)	381
Division 3		Amendments commencing 3 months after assent	
410		Amendment of s 1 (Short title)	381
411		Replacement of ss 3 and 4	381
	3	Main purpose of Act	381
	4	Definitions	381
412		Amendment of s 6 (Body art tattooing businesses to be licensed)	382
413		Amendment of s 7 (Body art tattooists to be licensed)	382
414		Amendment of s 11 (Licence applications)	382
415		Insertion of new ss 11A and 11B	383
	11A	Additional information required for applications for operator licences	383
	11B	Additional information required for applications for tattooist licences	385
416		Replacement of s 12 (Statement as to close associates of applicant for operator licence)	385
	12	Criteria for granting application	386
	12A	Additional criteria for operator licences	387

	12B	Additional criteria for tattooist licences	388
417		Amendment, relocation and renumbering of s 13 (Fingerprinting and palm printing of applicants)	388
418		Amendment, relocation and renumbering of s 14 (Destruction of fingerprints and palm prints)	388
419		Replacement of ss 15 and 16	389
	15	Inquiries about applicants, licensees and relevant persons	389
	15A	Costs of criminal history report	390
	15B	Notice of change in criminal history	390
	16	Chief executive may require further information	392
	16A	Use of information obtained under s 15, 15B, 16 or 61	393
420		Amendment of s 17 (Decision on application)	394
421		Amendment of s 18 (Term of licence)	394
422		Omission of pt 3, div 3 (Role of commissioner)	395
423		Amendment of s 25 (Change of licence particulars)	395
424		Amendment of s 27 (Changes in staff members)	395
425		Amendment of s 33 (Suspension of licence)	395
426		Amendment of s 34 (Cancellation of licence)	395
427		Insertion of new s 34A	396
	34A	Automatic cancellation on conviction	397
428		Insertion of new pt 3, div 6A and div 6B, hdg	397
	Division 6A	Renewal of licences	
	35A	Renewal of licence	397
	35B	Term of renewed licence	399
	35C	Grounds for refusal to renew	399
	35D	Procedure for refusal to renew	400
	Division 6B	Fingerprint and palm print procedures	
429		Amendment of s 38 (Way in which records for licensed premises to be kept)	401
430		Amendment of s 40 (Authority conferred by permit)	402
431		Amendment of s 41 (Application for exhibition permit)	402
432		Amendment of s 42 (Decision about application for exhibition permit)	402
433		Amendment of s 44 (Application for visiting tattooist permit)	403
434		Amendment of s 45 (Decision about application for visiting tattooist permit)	403

Contents

435	Amendment of s 46 (Interim closure of unlicensed or illegal tattoo parlours)	404
436	Amendment of s 47 (Long-term closure of tattoo parlours)	404
437	Omission of ss 57 and 58	404
438	Amendment of s 59 (False or misleading statements)	404
439	Amendment of s 60 (False or misleading documents)	405
440	Replacement of ss 61 and 62	405
	61 Exchange of information	405
	62 Confidentiality	406
441	Amendment of s 63 (Protection from liability)	408
442	Amendment of s 70 (Regulation-making power)	408
443	Omission of s 71 (Act to be reviewed)	408
444	Replacement of pt 8, hdg (Transitional provision)	409
445	Insertion of new pt 8, div 2	409
	Division 2 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	73 Applications not finally decided	409
	74 Show cause process not finally decided	409
	75 Proceedings not finally decided	410
	76 Additional prescribed offences	411
	77 Transitional regulation-making power	411
446	Amendment of sch 1 (Dictionary)	412
447	Renumbering of ss 12A and 12B	414
448	Renumbering of pt 3, divs 4–8	414
Part 31	Amendment of Tow Truck Act 1973	
449	Act amended	415
450	Amendment of s 4C (Who is an appropriate person)	415
451	Omission of pt 4, div 2, sdiv 1 and sdiv 2, hdg	415
452	Amendment of s 21A (Cancellation or suspension of authorities)	416
453	Amendment of s 21B (Immediate suspension of authority)	416
454	Amendment of s 21D (Amending, suspending or cancelling authority)	416
455	Omission of pt 4, div 2, sdiv 3, hdg (Delivery of cancelled or suspended authorities)	417
456	Amendment of s 21G (Delivery of cancelled or suspended authority)	417
457	Omission of pt 6, div 1, hdg and s 27A	417

458	Amendment of s 28 (Internal review of decisions)	417
459	Amendment of s 29 (Review of decisions by QCAT)	417
460	Omission of pt 6, div 2 (Confidentiality and application of Judicial Review Act 1991)	417
461	Amendment of s 36 (Chief executive may obtain information from police commissioner—criminal history)	418
462	Amendment of s 36A (Notice of change in police information about a person—criminal history)	418
463	Omission of s 36AA (Requesting and using police commissioner’s advice—identified participants and criminal organisations)	418
464	Replacement of s 36B (Chief executive may enter into arrangement about giving and receiving information with police commissioner)	419
	36B Exchange of information	419
465	Amendment of s 36C (Confidentiality)	420
466	Insertion of new pt 8, div 4	420
	Division 4 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	47 Definition for division	420
	48 Applications not finally decided	421
	49 Show cause process not finally decided	421
	50 Proceedings not finally decided	421
467	Amendment of sch 1 (Reviewable decisions)	422
468	Amendment of sch 2 (Dictionary)	423
Part 32	Amendment of Transport Operations (Passenger Transport) Act 1994	
469	Act amended	423
470	Amendment of sch 1A (Driver disqualification offences)	423
Part 33	Amendment of Weapons Act 1990	
471	Act amended	424
472	Amendment of s 10 (Limitations on issue of licence)	424
473	Amendment of s 10B (Fit and proper person—licensees)	424
474	Amendment of s 10C (Fit and proper person—licensed dealer’s associate)	424
475	Amendment of s 14 (Inquiries into application)	424
476	Amendment of s 18 (Renewal of licences)	425
477	Amendment of s 19 (Notice of rejection of application to issue or renew licence)	425
478	Amendment of s 30 (Suspension or revocation notice)	425
479	Amendment of s 50B (Unlawful supply of weapons)	425

Contents

480	Amendment of s 65 (Unlawful trafficking in weapons)	426
481	Amendment of s 142AA (Notices must be QCAT information notices)	426
482	Amendment of s 142A (Confidentiality of criminal intelligence) .	426
483	Omission of ss 143 and 144	427
484	Amendment of s 145 (Applicant may carry on business pending review)	427
485	Amendment of s 161 (Proceedings for an offence)	427
486	Omission of pt 8, div 5 (Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013)	428
487	Insertion of new pt 8, div 7	428
	Division 7 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	
	193 Applications not finally decided	428
	194 Proceedings not finally decided	429
488	Amendment of sch 2 (Dictionary)	430
Part 34	Amendment of Working with Children (Risk Management and Screening) Act 2000	
489	Act amended	430
490	Amendment of sch 2 (Current serious offences)	430
491	Amendment of sch 4 (Current disqualifying offences)	431
Part 35	Repeals	
492	Repeal of Acts	431
Part 36	Minor and consequential amendments	
493	Legislation amended	432
Part 37	Other matters	
494	Making of Criminal Code (External Agencies) Regulation 2016 .	432
495	Automatic repeal	432
Schedule 1	Minor and consequential amendments	433
Part 1	Amendments commencing on assent	
	Criminal Code (Criminal Organisations) Regulation 2013	433
	Drugs Misuse Act 1986	433
	Judicial Review Act 1991	434
	Legal Profession Act 2007	434
	Liquor Act 1992	434
	Motor Dealers and Chattel Auctioneers Act 2014	434

	Penalties and Sentences Act 1992	435
	Police Powers and Responsibilities Act 2000	435
Part 2	Amendments commencing 3 months after assent	
	Justice and Other Information Disclosure Act 2008	440
	Peace and Good Behaviour Regulation 2010	440
	Police Powers and Responsibilities Act 2000	441
	Queensland Civil and Administrative Tribunal Regulation 2009	442
	Tattoo Parlours Regulation 2013	442
	Weapons Regulation 2016	442
Schedule 2	Criminal Code (External Agencies) Regulation 2016	443
1	Short title	443
2	External agencies	443

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Serious and Organised Crime Legislation Amendment Act 2016*.

2 Commencement

(1) The following provisions commence on the day that is 3 months after the date of assent—

- part 7, division 3
- part 17
- part 18
- part 21, division 3
- part 22
- section 396(4) to (7)
- part 30, division 3
- schedule 1, part 2.

(2) Part 7, division 4, commences on the day that is 2 years after the date of assent.

Part 2 Amendment of Bail Act 1980

3 Act amended

This part amends the *Bail Act 1980*.

[s 4]

4 Amendment of s 6 (Definitions)

Section 6, definitions *criminal organisation* and *participant*—
omit.

5 Amendment of s 11 (Conditions of release on bail)

Section 11(2)(b)—

insert—

Examples of special conditions for paragraph (b)(ii)—

- a special condition that prohibits a person from associating with a stated person or a person of a stated class
- a special condition that prohibits a person from entering or being in the vicinity of a stated place or a place of a stated class

7 Amendment of s 16 (Refusal of bail)

(1) Section 16(3)(e)—

omit, insert—

(e) with an offence against the *Penalties and Sentences Act 1992*, section 161ZI or the *Peace and Good Behaviour Act 1982*, section 32; or

(2) Section 16(3A) to (3D)—

omit.

(3) Section 16(4), ‘or (3A)’—

omit.

8 Amendment of s 20 (Undertaking as to bail)

Section 20(10), definition *passport surrender condition*—

omit, insert—

passport surrender condition, for a defendant,

means a special condition under section 11(2) that includes a requirement that the defendant surrender the defendant's current passport.

Part 3 Amendment of Child Protection (Offender Reporting) Act 2004

9 Act amended

This part amends the *Child Protection (Offender Reporting) Act 2004*.

10 Amendment of sch 1 (Prescribed offences)

Schedule 1, item 4—

insert—

- section 228DA (Administering child exploitation material website)
- section 228DB (Encouraging use of child exploitation material website)
- section 228DC (Distributing information about avoiding detection)

Part 4 Amendment of Corrective Services Act 2006

11 Act amended

This part amends the *Corrective Services Act 2006*.

12 Amendment of s 12 (Prisoner security classification)

Section 12(1B)—

omit.

[s 13]

13 Amendment of s 13 (Reviewing prisoner's security classification)

Section 13(1B)—

omit.

14 Amendment of s 41 (Who may be required to give test sample)

Section 41(1)(c)—

omit.

15 Omission of ch 2, pt 2, div 6A (Criminal organisation segregation orders)

Chapter 2, part 2, division 6A—

omit.

16 Amendment of s 71 (Reconsidering decision)

(1) Section 71(5)—

omit.

(2) Section 71(6)—

renumber as section 71(5).

17 Amendment of s 178 (Definition for sdiv 2)

(1) Section 178, heading, 'Definition'—

omit, insert—

Definitions

(2) Section 178—

insert—

prescribed offence see the *Penalties and Sentences Act 1992*, section 161N.

relevant further period, in relation to a prisoner serving a term of imprisonment imposed under the *Penalties and Sentences Act 1992*, section 161R(2), means the period of the mandatory component of the sentence imposed on the prisoner under that section.

18 Amendment of s 181 (Parole eligibility date for prisoner serving term of imprisonment for life)

(1) Section 181—

insert—

(2A) However, if the term of imprisonment for life was imposed as the base component of a sentence under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner's parole eligibility date is the day that is worked out by adding 7 years to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).

(2B) Also, if a prisoner who is serving a term of imprisonment for life is sentenced under the *Penalties and Sentences Act 1992*, section 161R(2) for a prescribed offence, the prisoner's parole eligibility date is the day that is worked out by adding, to the parole eligibility date that would otherwise apply to the prisoner under subsection (2) or (2A), the lesser of the following periods—

- (a) 7 years;
- (b) the period of imprisonment provided for under the maximum penalty for the prescribed offence.

(2) Section 181(3), 'subsection (2)'—

omit, insert—

subsections (2), (2A) and (2B)

[s 19]

19 Amendment of s 181A (Parole eligibility date for prisoner serving term of imprisonment for life for a repeat serious child sex offence)

Section 181A—

insert—

- (3) However, if the term of imprisonment for life under the *Penalties and Sentences Act 1992*, section 161E was imposed as the base component of a sentence under section 161R(2) of that Act, the prisoner's parole eligibility date is the day that is worked out by adding 7 years to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).
- (4) Also, if a prisoner who is serving a term of imprisonment for life under the *Penalties and Sentences Act 1992*, section 161E is sentenced under section 161R(2) of that Act for a prescribed offence, the prisoner's parole eligibility date is the day that is worked out by adding, to the parole eligibility date that would otherwise apply to the prisoner under subsection (2) or (3), the lesser of the following periods—
 - (a) 7 years;
 - (b) the period of imprisonment provided for under the maximum penalty for the prescribed offence.

20 Amendment of s 182 (Parole eligibility date for serious violent offender)

(1) Section 182—

insert—

- (2A) However, if the term of imprisonment for the serious violent offence was imposed under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner's parole eligibility date is

the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (2B).

(2B) The notional parole eligibility date is the day that would apply under subsection (2) if the term of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2) consisted only of the base component of the sentence imposed under that section.

(2) Section 182(3), ‘However’—

omit, insert—

Despite subsections (2) and (2A)

21 Amendment of s 182A (Parole eligibility date for prisoner serving term of imprisonment for other particular serious offences)

(1) Section 182A(1)—

omit, insert—

(1) This section applies to a prisoner who—

(a) is serving a term of imprisonment for a drug trafficking offence; and

(b) was sentenced for the offence under the *Drugs Misuse Act 1986*, section 5(2) as in force before the commencement of the *Serious and Organised Crime Legislation Amendment Act 2016*, section 164.

(2) Section 182A(3)(b), after ‘against’—

insert—

the Criminal Code,

(3) Section 182A—

insert—

(3A) However, if the term of imprisonment for the

[s 22]

offence against the Criminal Code, section 314A was imposed under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (3B).

(3B) The notional parole eligibility date is the day that would apply under subsection (3) if the term of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2) consisted only of the base component of the sentence imposed under that section.

(4) Section 182A(4), 'However'—

omit, insert—

Despite subsections (3) and (3A)

22 Amendment of s 183 (Parole eligibility date for prisoner detained for a period directed by a judge under Criminal Law Amendment Act 1945, pt 3)

(1) Section 183—

insert—

(2A) However, subsection (2B) applies if—

(a) the offence for which the prisoner is being detained is a prescribed offence committed with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q; and

(b) the prisoner has been sentenced for the offence under section 161R(2) of that Act.

(2B) The prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).

(2) Section 183(3), ‘However’—

omit, insert—

Despite subsections (2) and (2B)

23 Amendment of s 184 (Parole eligibility date for other prisoners)

(1) Section 184(1)(a)(ii), after ‘3 years’—

insert—

(excluding the mandatory component of any sentence of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2))

(2) Section 184(1)(b), after ‘for an offence’—

insert—

(excluding the mandatory component of any sentence of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2))

(3) Section 184—

insert—

(3A) Despite subsections (2) and (3)(a), if the prisoner has been sentenced for the offence under the *Penalties and Sentences Act 1992*, section 161R(2), the prisoner’s parole eligibility date is the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (3B).

(3B) The notional parole eligibility date is the day that would apply under subsection (2) or (3)(a) if the term of imprisonment imposed on the prisoner under the *Penalties and Sentences Act 1992*, section 161R(2) consisted only of the base component of the sentence imposed under that section.

[s 24]

24 Amendment of s 185B (Parole eligibility date for prisoner serving term of imprisonment for an offence against *Weapons Act 1990*, section 50, 50B or 65)

(1) Section 185B, heading, ‘section 50’—

omit, insert—

s 50

(2) Section 185B—

insert—

(3) However, if the term of imprisonment was imposed under the *Penalties and Sentences Act 1992*, section 161R(2) for an offence against the *Weapons Act 1990*, section 50B or 65, the prisoner’s parole eligibility date is the day that is worked out by adding the relevant further period to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).

25 Omission of s 267A (Directions to identified participant in criminal organisation)

Section 267A—

omit.

26 Omission of s 344AA (Commissioner may provide information about particular offender’s participation in criminal organisation)

Section 344AA—

omit.

27 Omission of ss 350A and 350B

Sections 350A and 350B—

omit.

28 Insertion of new ch 7A, pt 9

Chapter 7A—

insert—

**Part 9 Transitional provisions
for Serious and
Organised Crime
Legislation
Amendment Act 2016**

490E Definition for part

In this part—

pre-amended Act means this Act as in force before the commencement.

490F Prisoner classifications

- (1) This section applies in relation to a prisoner who, immediately before the commencement, was subject to a criminal organisation segregation order under the pre-amended Act.
- (2) On the commencement, the prisoner's security classification under the pre-amended Act, section 12(1B), is the prisoner's security classification under section 12(1).
- (3) The chief executive must, as soon as practicable after the commencement, review the prisoner's security classification under section 13.

490G Keeping records

- (1) The chief executive must continue to keep the record of relevant information about a prisoner.
- (2) In this section—

[s 28]

record of relevant information, about a prisoner, means the record under the pre-amended Act, section 65D, and copies of any advices mentioned in the pre-amended Act, section 65D(3), kept in relation to the prisoner immediately before the commencement.

490H Criminal organisation segregation orders

- (1) On the commencement, a criminal organisation segregation order in effect under the pre-amended Act immediately before the commencement is cancelled.
- (2) A doctor or nurse must, as soon as practicable after the commencement, examine the prisoner who was subject to the order.
- (3) The chief executive must record, for each corrective services facility, the following details for each prisoner who was subject to an order mentioned in subsection (1)—
 - (a) the date on which it was cancelled;
 - (b) the date on which the prisoner was examined under subsection (2).
- (4) The chief executive must record the information mentioned in subsection (3) in the record kept under section 490G.

490I Requirement for test sample before commencement

On the commencement, any requirement made of a person under the pre-amended Act, section 41(1)(c), ends.

490J Directions to identified participant

- (1) On the commencement, a direction given under

the pre-amended Act, section 267A(3)(a) or (c), and in place immediately before the commencement ends.

- (2) The chief executive must tell the offender subject to the direction that the direction is no longer in place.

490K Monitoring devices

- (1) If immediately before the commencement an offender was subject to a direction under the pre-amended Act, section 267A(3)(b), the direction continues in force according to its terms.
- (2) The chief executive must review the direction as soon as practicable after the commencement.
- (3) If the chief executive does not consider it reasonably necessary for the offender to wear a device for monitoring the offender's location, the chief executive must—
 - (a) cancel the direction; and
 - (b) tell the offender that the direction given to the offender is no longer in place.

29 Amendment of sch 1 (Sexual offences)

Schedule 1, entry for the Criminal Code—

insert—

section 228DA (Administering child exploitation material website)

section 228DB (Encouraging use of child exploitation material website)

section 228DC (Distributing information about avoiding detection)

[s 30]

30 Amendment of sch 4 (Dictionary)

Schedule 4, definitions *COSO*, *criminal organisation*, *criminal organisation segregation order*, *identified participant* and *participant*—

omit.

**Part 5 Amendment of Crime and
Corruption Act 2001**

31 Act amended

This part amends the *Crime and Corruption Act 2001*.

32 Amendment of s 25 (Commission's crime function)

Section 25(b)—

omit, insert—

- (b) to investigate, under an authorisation under section 55D, incidents that threaten, have threatened or may threaten public safety that criminal organisations or participants in criminal organisations have engaged in, are engaging in, or are planning to engage in.

33 Amendment of s 53 (Intelligence functions)

Section 53(b), 'under an authorisation under section 55F'—

omit.

34 Replacement of ch 2, pt 4, div 2A, hdg

Chapter 2, part 4, division 2A, heading—

omit, insert—

**Division 2A Specific intelligence
operations**

35 Amendment of s 55A (Authorising the commission)

Section 55A, heading, ‘the commission’—

omit, insert—

specific intelligence operation

**36 Amendment of s 55B (Matters to which the reference
committee must consider before granting an
authorisation)**

Section 55B, heading, from ‘to which’—

omit, insert—

reference committee must consider

**37 Amendment of s 55C (Reference committee may give
commission directions about intelligence operations)**

Section 55C, heading, from ‘about’—

omit.

38 Replacement of ch 2, pt 4, div 2B (Public safety)

Chapter 2, part 4, division 2B—

omit, insert—

**Division 2B Immediate responses to
threats to public safety**

55D Authorising immediate response

- (1) This section applies if the reference committee is satisfied there are reasonable grounds to suspect

[s 38]

that a criminal organisation or a participant in a criminal organisation has engaged in, is engaging in, or is planning to engage in, an incident that threatens, has threatened or may threaten public safety.

- (2) The reference committee may authorise the commission to do either or both of the following in response to, or to prevent, the threat to public safety—
 - (a) undertake an investigation into the incident;
 - (b) conduct a hearing in relation to the incident.
- (3) The authorisation must be in writing and identify—
 - (a) the criminal organisation or participant that has engaged in, is engaging in, or is planning to engage in, the incident; and
 - (b) the nature of the incident; and
 - (c) the purpose of the investigation or hearing.
- (4) The authorisation may be made by the reference committee—
 - (a) on its own initiative; or
 - (b) if asked by the senior executive officer (crime) or the senior executive officer (corruption).

55E Matters reference committee must consider

- (1) The reference committee may authorise the commission to undertake the investigation or conduct the hearing only if the committee is satisfied—
 - (a) as required under section 55D(1); and
 - (b) it is in the public interest to authorise the commission to undertake the investigation

or conduct the hearing in response to, or to prevent, the threat to public safety.

- (2) In considering the public interest, the reference committee may also have regard to the likely effectiveness of an investigation into criminal activity or corruption without the use of powers available to the commission under this division.
- (3) In this section—

criminal activity means any act or omission that involves the commission of an offence.

55F Reference committee may give commission directions

- (1) The reference committee may give the commission directions imposing limitations on the commission's investigation or hearing under an authorisation under section 55D, including limitations on the exercise of the commission's powers for the investigation or hearing.
- (2) The reference committee may also direct the commission to end an investigation or hearing under an authorisation under section 55D if the committee considers—
 - (a) it may be more appropriate for another entity to undertake the investigation or conduct the hearing; or
 - (b) it may be more effective for another entity to undertake the investigation or conduct the hearing; or
 - (c) undertaking the investigation or conducting the hearing is not a justifiable use of the commission's resources; or
 - (d) it is not in the public interest for the commission to undertake the investigation or conduct the hearing.

[s 39]

- (3) The commission must comply with a direction given under subsection (1) or (2).
- (4) The reference committee may amend the terms of an authorisation on its own initiative or if asked by the senior executive officer (crime) or the senior executive officer (corruption).
- (5) To remove any doubt, it is declared that subsection (2)(d) is not limited by section 55D(2).

39 Amendment of s 74 (Notice to produce for crime investigation, specific intelligence operation (crime) or witness protection function)

Section 74(5A) and (9)—

omit.

40 Amendment of s 82 (Notice to attend hearing—general)

(1) Section 82(6) and (9)—

omit.

(2) Section 82(7), ‘section 55F’—

omit, insert—

section 55D

(3) Section 82(8), ‘subsection (7)’—

omit, insert—

subsection (6)

(4) Section 82(7) and (8)—

renumber as section 82(6) and (7).

41 Amendment of s 85 (Notices requiring immediate attendance may be issued only by or with the approval of a Supreme Court judge)

Section 85(2)(c), note, ‘section 82(7)’—

omit, insert—

section 82(6)

42 Insertion of new s 85A

Chapter 3, part 2—

insert—

85A Definitions for part

In this part—

access information means information that is necessary for a person to access and read information stored electronically on a storage device.

employee includes a person who works under a contract for services.

issuer see section 86(6).

relevant evidence means—

- (a) evidence of the commission of major crime or corruption; or
- (b) evidence that may be confiscation related evidence.

specified person means a person who—

- (a) is—
 - (i) reasonably suspected of having committed an offence for which a search warrant was issued; or
 - (ii) the owner of a storage device; or
 - (iii) in possession of a storage device; or
 - (iv) an employee of the owner or person in possession of a storage device; or
 - (v) a person who uses or has used a storage device; or

[s 43]

- (vi) a person who is or was a system administrator for the computer network of which a storage device forms or formed a part; and
- (b) has a working knowledge of—
 - (i) how to access and operate a storage device or a computer network of which the storage device forms or formed a part; or
 - (ii) measures applied to protect information stored on a storage device.

storage device means a device on which information may be stored electronically, including a computer.

stored, on a storage device, includes accessible through the device.

43 Insertion of new ss 88A–88C

After section 88—

insert—

88A Order in search warrant about information necessary to access information stored electronically

- (1) The issuer may, in the search warrant, order a specified person to do any of the following in relation to a storage device in the person's possession, or to which the person has access, at the place—
 - (a) give a commission officer access to the device;
 - (b) give a commission officer access information and any other information or assistance necessary for the officer to gain access to information stored on the device;

- (c) allow a commission officer to—
 - (i) use access information to gain access to information stored on the device; and
 - (ii) examine information stored on the device to find out whether it may be relevant evidence; and
 - (iii) make a copy of information stored on the device that may be relevant evidence, including by using another storage device; and
 - (iv) convert information stored on the device that may be relevant evidence into documentary form or another form that enables it to be understood by a commission officer.
- (2) The issuer may also, in the search warrant, order that, if the storage device is seized and removed from the place, a specified person is required to do a thing mentioned in subsection (1)(b) or (c) after the device has been removed.
- (3) An order made under subsection (2) must state—
 - (a) the time at or by which the specified person must give a commission officer the information or assistance; and
 - (b) the place where the specified person must provide the information or assistance; and
 - (c) any conditions to which the provision of the information or assistance is subject.

88B Order for access information after storage device has been seized

- (1) This section applies if—

[s 43]

- (a) a storage device is seized under the search warrant and removed from the place; and
- (b) either—
 - (i) the search warrant did not contain an order made under section 88A(1) or (2); or
 - (ii) the search warrant contained an order made under section 88A(1) or (2) but further access information is required for a commission officer to gain access to information stored on the device that may be relevant evidence.
- (2) On the application of an authorised commission officer, a magistrate or a judge may make an order requiring a specified person to do a thing mentioned in section 88A(1)(b) or (c).
- (3) An application made under subsection (2)—
 - (a) may be made at any time after the warrant has been issued; and
 - (b) must be made—
 - (i) if the search warrant was issued by a judge—to a Supreme Court judge; or
 - (ii) if the search warrant was issued by a magistrate—to a magistrate.
- (4) An order made under subsection (2) must state—
 - (a) the time at or by which the specified person must give a commission officer the information or assistance; and
 - (b) the place where the specified person must provide the information or assistance; and
 - (c) any conditions to which the provision of the information or assistance is subject; and

-
- (d) that failure, without reasonable excuse, to comply with the order may be dealt with under the Criminal Code, section 205A.
- (5) A magistrate or a judge may make an order under subsection (2) only if satisfied there are reasonable grounds for suspecting that information stored on the storage device may be relevant evidence.

88C Compliance with order about information necessary to access information stored electronically

A person is not excused from complying with an order made under section 88A(1) or (2) or 88B(2) on the ground that complying with it may tend to incriminate the person or make the person liable to a penalty.

44 Amendment of s 91 (What search warrant must state)

Section 91(2)—

omit, insert—

- (2) If a magistrate or a judge makes an order under section 88 or 88A(1) or (2), the warrant must also state that failure, without reasonable excuse, to comply with the order may be dealt with under—
- (a) for section 88—the Criminal Code, section 205; or
- (b) for section 88A(1) or (2)—the Criminal Code, section 205A.

45 Amendment of s 176 (Commission may hold hearings)

Section 176(3), ‘or 55F’—

omit, insert—

[s 46]

or 55D

46 Amendment of s 185 (Refusal to produce—claim of reasonable excuse)

Section 185(3A) and (10)—

omit.

47 Amendment of s 190 (Refusal to answer question)

Section 190(4) and (5)—

omit.

48 Amendment of s 199 (Punishment of contempt)

(1) Section 199(8A), ‘However, if’—

omit, insert—

However, the court must punish the person in contempt by imprisonment if

(2) Section 199(8A), from ‘contempt;’—

omit, insert—

contempt.

(3) Section 199(8B) and (8C)—

omit, insert—

(8B) The maximum punishment the court may impose for a contempt mentioned in subsection (8A) is—

(a) for the person’s first contempt—10 years imprisonment; or

(b) for the person’s second contempt—14 years imprisonment; or

(c) for the person’s third or subsequent contempt—life imprisonment.

(8C) For subsection (8B)—

-
- (a) despite any other law, a term of imprisonment imposed under subsection (8B) must be ordered to be served wholly in a corrective services facility; and
 - (b) if a person is punished for more than 1 contempt, unless there are exceptional circumstances, the punishment for the second contempt or third or subsequent contempt must be for a term of imprisonment that is longer than the term of imprisonment imposed on the person for the immediately preceding contempt; and
 - (c) the hearings mentioned in subsection (12), definition *second contempt*, may be the same hearing; and
 - (d) the hearings mentioned in subsection (12), definition *third or subsequent contempt*, may be the same hearing; and
 - (e) the failure by a person of a type mentioned in subsection (8A) that constitutes the person's second contempt, or third or subsequent contempt, may be the same failure by the person of a type mentioned in subsection (8A) that constituted the person's first contempt or other preceding contempt.
- (4) Section 199(8D) and (8E), 'under subsection (8A)'—
omit, insert—
under this section
- (5) Section 199—
insert—
- (12) In this section—
first contempt, of a person, means a failure by the person of a type mentioned in subsection (8A).
second contempt, of a person, means a failure by

[s 49]

the person of a type mentioned in subsection (8A) that takes place in relation to a hearing dealing with the same subject matter as that dealt with in the hearing in which the person's first contempt was certified and for which the person has served a term of imprisonment imposed under subsection (8B).

third or subsequent contempt, of a person, means a failure by the person of a type mentioned in subsection (8A) that takes place in relation to a hearing dealing with the same subject matter as that dealt with in the hearing in which the person's first contempt or other preceding contempt was certified and for which the person has served a term of imprisonment imposed under subsection (8B).

49 Amendment of s 201 (Commission must give evidence to defence unless court certifies otherwise)

Section 201(1A)—

omit.

50 Amendment of s 205 (Legal assistance for crime investigations)

(1AA) Section 205, heading, 'for crime investigations'—

omit.

(1) Section 205(1)(a), 'for a crime investigation'—

omit.

(2) Section 205(1)(b), from 'hearing'—

omit, insert—

commission hearing.

(3) Section 205(1A)—

omit.

(4) Section 205—

insert—

(6) The Attorney-General may delegate a function under subsection (3) or (4) to the chief executive (justice).

(7) The chief executive (justice) may subdelegate the delegated function to an appropriately qualified employee of the department administered by the chief executive (justice).

(8) In this section—

chief executive (justice) means the chief executive of the department in which the Criminal Code is administered.

function includes power.

51 Amendment of s 213 (Secrecy)

(1) Section 213(3)(a)(i) and (b)(i)(A) ‘, an application or proceeding under the *Criminal Organisation Act 2009*’—

omit.

(2) Section 213(4)(b)(iii)—

omit.

52 Amendment of s 270 (Delegation—chairperson)

Section 270(2)(a), ‘section 55F or 82(7)’—

omit, insert—

section 82(6)

53 Amendment of s 348 (Regulation-making power)

Section 348(2)—

omit, insert—

[s 54]

- (2) A regulation may provide for—
- (a) procedures to be followed in proceedings before the commission; or
 - (b) procedures to be observed by commission officers and other persons in performing the commission's functions or exercising the commission's powers.

54 Omission of s 348A (Criteria for recommending an entity be declared a criminal organisation)

Section 348A—

omit.

55 Insertion of new ch 8, pt 14

Chapter 8—

insert—

**Part 14 Serious and Organised
 Crime Legislation
 Amendment Act 2016**

Division 1 General

**427 Authorisation by chairperson of immediate
 response function**

- (1) This section applies if—
- (a) before the commencement, the chairperson authorised, under section 55F, a crime investigation or the holding of an intelligence hearing (or both) in response to, or to prevent, a threat to public safety; and

- (b) on the commencement, the investigation or hearing was not finalised.
- (2) The investigation or hearing is taken to have been authorised by the reference committee under section 55D.

428 Refusal to comply with notice to produce for fear of reprisal

- (1) This section applies if—
 - (a) before the commencement, a person was given a notice to produce under section 74; and
 - (b) immediately before the commencement, the person had not complied with the notice to produce and had not been convicted of an offence against section 74(5).
- (2) Section 74, as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*, applies in relation to the notice to produce.

429 Refusal to comply with attendance notice for fear of reprisal

- (1) This section applies if—
 - (a) before the commencement, a person was given an attendance notice under section 82; and
 - (b) immediately before the commencement, the person had not complied with the attendance notice and had not been convicted of an offence against section 82(5).
- (2) Section 82, as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*, applies in relation to the attendance notice.

430 Refusal to comply with requirement to produce stated document or thing for fear of reprisal

- (1) This section applies if—
 - (a) before the commencement, a person was required to produce a stated document or thing at a commission hearing under an attendance notice or a section 75B requirement; and
 - (b) immediately before the commencement, the person had not complied with the requirement and had not been convicted of an offence against section 185(1).
- (2) Section 185, as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*, applies in relation to the requirement.

431 Refusal to answer question for fear of reprisal

- (1) This section applies if—
 - (a) before the commencement, a witness at a commission hearing was required to answer a question put to the person at the hearing by the presiding officer; and
 - (b) immediately before the commencement, the person had not answered the question and had not been convicted of an offence against section 190(1).
- (2) Section 190, as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*, applies in relation to the requirement.

432 Punishment for contempt

- (1) To remove any doubt, it is declared that for section 199(8B), as amended by the *Serious and Organised Crime Legislation Amendment Act*

2016—

- (a) a first contempt means a first contempt committed after the commencement of the *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013*; and
 - (b) a second contempt means a second contempt committed after the commencement of the *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013*; and
 - (c) a third or subsequent contempt means a third or subsequent contempt committed after the commencement of the *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013*.
- (2) Also, section 199, as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*, applies to a proceeding for a contempt that has not been finalised before the commencement, whether the contempt was committed before or after the commencement.

433 Commission must give evidence to defence

Section 201, as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*, applies to anything stated at, or a document or thing produced at, a commission hearing, whether the commission hearing started before or after the commencement.

Division 2 Proceedings for offences and contempts relating to fear of reprisal

434 Definitions for division

In this division—

fear of reprisal, of a person, means fear, genuinely held, of—

- (a) personal physical harm or damage to the person's property; or
- (b) physical harm to someone else, or damage to the property of someone else, with whom the person has a connection or bond.

pre-amended Act means this Act as in force before the commencement.

requirement the subject of the contempt means—

- (a) for a contempt constituted by a failure by a person, under section 183, to take an oath when required by the presiding officer—the requirement to take the oath; or
- (b) for a contempt constituted by a failure by a person, under section 185 or 188, to produce a stated document or thing at a commission hearing under an attendance notice or a section 75B requirement without reasonable excuse—the requirement to produce the stated document or thing; or
- (c) for a contempt constituted by a failure by a person, under section 190 or 192, to answer a question put to the person at the hearing by the presiding officer without reasonable excuse or lawful excuse—the requirement to answer the question.

requirement the subject of the offence means—

- (a) for an offence against section 74(5) of the pre-amended Act—the requirement to comply with the notice to produce under section 74(2) of the pre-amended Act; or

- (b) for an offence against section 82(5) of the pre-amended Act—the requirement to comply with the attendance notice under section 82(1) of the pre-amended Act; or
- (c) for an offence against section 185(1) of the pre-amended Act—the requirement to produce a stated document or thing at the commission hearing under the attendance notice or section 75B requirement given under the pre-amended Act; or
- (d) for an offence against section 190(1) of the pre-amended Act—the requirement to answer a question put to the person at the commission hearing under the pre-amended Act by the presiding officer.

435 Application of division

- (1) This division applies if—
 - (a) a person has been convicted of an offence against the pre-amended Act, section 74(5), 82(5), 185(1) or 190(1); and
 - (b) at the time of failing to comply with the requirement the subject of the offence, the person may have had a reasonable excuse for failing to comply with the requirement based on the person’s fear of reprisal.
- (2) This division also applies if—
 - (a) a person has been found guilty under section 199(8) by the Supreme Court of a contempt of the presiding officer constituted by—
 - (i) a failure by the person, under section 183, to take an oath when required by the presiding officer; or
 - (ii) a failure by the person, under section 185 or 188, to produce a stated

[s 55]

- document or thing at a commission hearing under an attendance notice or a section 75B requirement without reasonable excuse; or
- (iii) a failure by the person, under section 190 or 192, to answer a question put to the person at the hearing by the presiding officer without reasonable excuse or lawful excuse; and
- (b) at the time of failing to comply with the requirement the subject of the contempt, the person may have had a reasonable excuse for failing to comply with the requirement based on the person's fear of reprisal.
- (3) For subsection (1)(b) and (2)(b), it does not matter if the reasonable excuse based on the fear of reprisal is raised by the person for the first time in an application under this division.

436 Application to Supreme Court

- (1) The person may apply to the Supreme Court—
 - (a) for an offence mentioned in section 435(1)(a)—to set aside the conviction for the offence on the grounds the person, at the time of failing to comply with the requirement the subject of the offence, had a reasonable excuse, based on the person's fear of reprisal, for failing to comply with the requirement; or
 - (b) for a contempt mentioned in section 435(2)(a)—to set aside the finding of guilt and any punishment for the contempt imposed by the court under section 199(8) on the grounds the person, at the time of failing to comply with the requirement the subject of the contempt, had a reasonable

excuse, based on the person's fear of reprisal, for failing to comply with the requirement.

- (2) The application must be made within 3 months after the commencement.
- (3) The court may, at any time, extend the period mentioned in subsection (2).
- (4) The court must give a copy of the application to the commission.
- (5) Within 10 business days after the making of the application, the court must give directions to enable the application to be heard.
- (6) Subject to any directions given by the court, the application must be heard within 20 business days after the day on which the application is made.

437 Hearing—offence

- (1) On the hearing of an application under section 436(1)(a) to set aside a conviction for the offence, the Supreme Court may—
 - (a) set aside the conviction; or
 - (b) confirm the conviction.
- (2) The court may have regard to any material relevant to the application.

438 Hearing—contempt

- (1) On the hearing of an application under section 436(1)(b) to set aside the finding of guilt and any punishment for the contempt imposed by the court under section 199(8), the Supreme Court may—
 - (a) set aside the finding of guilt and the punishment; or

[s 56]

- (b) confirm the finding of guilt and the punishment.
- (2) The court may have regard to any material relevant to the application.

439 Appeals

A person making an application under section 436, or the Attorney-General, may appeal to the Court of Appeal against a decision of the Supreme Court under section 437 or 438 on any ground which involves a question of law alone.

440 No cause of action

No cause of action may be started or continued against the State in relation to any period of imprisonment the person may have actually served in relation to a conviction for an offence, or a finding of guilt and imposition of punishment for contempt, set aside under this division.

56 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *criminal organisation* and *participant*—
omit.
- (2) Schedule 2—
insert—

access information, for chapter 3, part 2, see section 85A.

criminal organisation see the *Penalties and Sentences Act 1992*, section 161O.

employee, for chapter 3, part 2, see section 85A.

issuer, for chapter 3, part 2, see section 86(6).

participant, in a criminal organisation, see the *Penalties and Sentences Act 1992*, section 161P.

relevant evidence, for chapter 3, part 2, see section 85A.

specified person, for chapter 3, part 2, see section 85A.

storage device, for chapter 3, part 2, see section 85A.

stored, for chapter 3, part 2, see section 85A.

- (3) Schedule 2, definition *intelligence function hearing*, ‘section 55A or 55F(2)’—

omit, insert—

section 55A or 55D(2)

Part 6 **Amendment of Crime and Corruption Regulation 2015**

57 **Regulation amended**

This part amends the *Crime and Corruption Regulation 2015*.

58 **Omission of s 20 (Entities declared to be criminal organisations)**

Section 20—

omit.

59 **Omission of sch 2 (Entities declared to be criminal organisations)**

Schedule 2—

omit.

[s 60]

Part 7 Amendment of Criminal Code

Division 1 Preliminary

60 Code amended

This part amends the Criminal Code.

Division 2 Amendments commencing on assent

61 Amendment of s 1 (Definitions)

- (1) Section 1, definitions *criminal organisation* and *spent conviction*—
omit.
- (2) Section 1—
insert—

anonymising service, for part 4, chapter 22, see section 207A.

criminal organisation—

- (a) generally—has the meaning given by the *Penalties and Sentences Act 1992*, section 161O; and
- (b) for sections 60A and 60B—includes an entity declared by regulation to be a criminal organisation.

distribute, for part 4, chapter 22, see section 207A.

hidden network, for part 4, chapter 22, see section 207A.

information, for part 4, chapter 22, see section

207A.

participant, in a criminal organisation, see the *Penalties and Sentences Act 1992*, section 161P.

network, for part 4, chapter 22, see section 207A.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

62 Amendment of s 60A (Participants in criminal organisation being knowingly present in public places)

- (1) Section 60A(1), ‘an offence’—

omit, insert—

a misdemeanour

- (2) Section 60A(1), minimum penalty—

omit.

- (3) Section 60A(3), definitions *member* and *participant*—

omit.

- (4) Section 60A(3)—

insert—

criminal activity does not include conduct constituting a simple offence or a regulatory offence.

63 Amendment of s 60B (Participants in criminal organisation entering prescribed places and attending prescribed events)

- (1) Section 60B(1) and (2), ‘an offence’—

omit, insert—

[s 64]

a misdemeanour

(2) Section 60B(1) and (2), minimum penalty—

omit.

(3) Section 60B(4), definition *participant*—

omit.

(4) Section 60B(4)—

insert—

criminal activity does not include conduct constituting a simple offence or a regulatory offence.

64 Omission of s 60C (Participants in criminal organisation recruiting persons to become participants in the organisation)

Section 60C—

omit.

65 Amendment of s 61 (Riot)

Section 61—

insert—

(2A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.

(2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

66 Amendment of s 72 (Affray)

(1) Section 72(2), (3) and (4)—

omit.

- (2) Section 72(3A), ‘also’—

omit.

- (3) Section 72(3A)—

renumber as section 72(2).

67 Insertion of new s 76

Part 2, chapter 9—

insert—

76 Recruiting person to become participant in criminal organisation

- (1) A person who—
- (a) is a participant in a criminal organisation or is subject to a control order or a registered corresponding control order; and
 - (b) recruits, or attempts to recruit, another person to become, or associate with, a participant in a criminal organisation;

commits a misdemeanour.

Maximum penalty—500 penalty units or 5 years imprisonment.

- (2) In this section—

control order see the *Penalties and Sentences Act 1992*, section 161N.

recruit, a person to become, or associate with, a participant in a criminal organisation, includes counsel, procure, solicit, incite and induce the person, including by promoting the organisation, to become, or associate with, a participant in the organisation.

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

[s 68]

68 Amendment of s 86 (Obtaining of or disclosure of secret information about the identity of informant)

(1) Section 86(3), definition *external agency*—

omit.

(2) Section 86(3)—

insert—

criminal intelligence means information relating to actual or suspected criminal activity (including information the commissioner has obtained through the police service or from an external agency), whether in the State or elsewhere, the disclosure of which could reasonably be expected to—

- (a) prejudice a criminal investigation; or
- (b) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or
- (c) endanger a person's life or physical safety.

external agency means any of the following—

- (a) the Crime and Corruption Commission;
- (b) the Australian Federal Police;
- (c) a police force or service of another State;
- (d) the chief executive (corrective services);
- (e) an officer of another State with powers and functions substantially corresponding to the powers and functions of the chief executive (corrective services) under the *Corrective Services Act 2006*;
- (f) another entity—
 - (i) established under a law of another jurisdiction, including a jurisdiction outside Australia; and

- (ii) with functions that include investigating or inquiring into criminal conduct, misconduct or corruption (whether or not the functions are stated in the law mentioned in subparagraph (i)); and
- (iii) declared by regulation to be an external agency.

officer, of an external agency, includes a person employed by the agency, seconded to the agency or engaged by the agency under a contract for services.

- (3) Section 86(3), definition *criminal organisation informant*, paragraph (a), ‘for the purposes of the *Criminal Organisation Act 2009*’—

omit, insert—

about a criminal organisation or a participant in a criminal organisation

- (4) Section 86(3), definition *criminal organisation informant*, paragraph (d)—

omit.

69 Amendment of s 87 (Official corruption)

Section 87—

insert—

- (1B) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (1C) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

[s 70]

70 Amendment of s 92A (Misconduct in relation to public office)

(1) Section 92A(4A) and (4B)—

omit, insert—

(4A) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.

(4B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

(2) Section 92A(5), definition *participant*—

omit.

71 Amendment of s 119B (Retaliation against or intimidation of judicial officer, juror, witness etc.)

(1) Section 119B(1A), from ‘under’—

omit, insert—

for a prescribed offence charged with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q.

(2) Section 119B—

insert—

(1B) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.

(1C) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

(3) Section 119B(2)—

insert—

prescribed offence see the *Penalties and Sentences Act 1992*, section 161N.

72 Amendment of s 122 (Corruption of jurors)

Section 122—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

73 Amendment of s 127 (Corruption of witnesses)

Section 127—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

74 Amendment of s 140 (Attempting to pervert justice)

Section 140—

insert—

- (2) The *Penalties and Sentences Act 1992*, section

[s 75]

161Q states a circumstance of aggravation for an offence against this section.

- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

75 Insertion of new s 205A

Part 3, chapter 20—

insert—

205A Contravening order about information necessary to access information stored electronically

A person who contravenes—

- (a) an order made under the *Police Powers and Responsibilities Act 2000*, section 154(1) or (2) or 154A(2); or
- (b) an order made under the *Crime and Corruption Act 2001*, section 88A(1) or (2) or 88B(2);

commits a crime.

Maximum penalty—5 years imprisonment.

76 Amendment of s 207A (Definitions for this chapter)

Section 207A—

insert—

anonymising service means a device or other thing, or a physical, digital or other measure, used to hide—

- (a) the identity or location of a person who administers, accesses or uses a network, computer or other device; or

- (b) information stored on a network, computer or other device; or
- (c) communication, including the exchange of information, between 2 or more persons using a network, computer or other device; or
- (d) the location of a network, computer or other device.

Examples of physical, digital or other measures—

software, password or other authorisation, encryption, routing systems, communications ports

distribute includes—

- (a) communicate, exhibit, send, supply or transmit to someone, whether to a particular person or not; and
- (b) make available for access by someone, whether by a particular person or not; and
- (c) enter into an agreement or arrangement to do something in paragraph (a) or (b); and
- (d) attempt to distribute.

hidden network means a network of computers or other devices (whether or not part of the internet) that has, or uses, digital, physical or other measures to do, or that are designed to do, any of the following—

- (a) restrict access to the network;
- (b) make the network undiscoverable when searched for in a way that is generally used to search for networks, including, for example, by using an internet search engine;
- (c) hide the identity or location of persons who administer, access or use the network;
- (d) hide information stored on the network;

[s 77]

- (e) hide communication, including the exchange of information, between—
 - (i) the network and a person who administers, accesses or uses the network; or
 - (ii) 2 or more persons who administer, access or use the network;
- (f) hide the location of the network.

Examples of physical, digital or other measures—

software, password or other authorisation, encryption, routing systems, communications ports

information includes a photograph, picture, videotape, digital image and any other visual representation.

network, of computers or other devices, includes part of a network of computers or other devices.

77 Amendment of s 210 (Indecent treatment of children under 16)

Section 210—

insert—

- (4B) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (4C) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

78 Amendment of s 213 (Owner etc. permitting abuse of children on premises)

Section 213—

insert—

- (3A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

79 Amendment of s 215 (Carnal knowledge with or of children under 16)

Section 215—

insert—

- (4B) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (4C) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

80 Amendment of s 217 (Procuring young person etc. for carnal knowledge)

Section 217—

insert—

- (1A) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (1B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the

[s 81]

consent of a Crown Law Officer.

81 Amendment of s 218 (Procuring sexual acts by coercion etc.)

Section 218—

insert—

- (3A) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

82 Amendment of s 218A (Using internet etc. to procure children under 16)

Section 218A—

insert—

- (2A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

83 Amendment of s 218B (Grooming children under 16)

Section 218B—

insert—

- (2A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation

for an offence against this section.

- (2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

84 Amendment of s 219 (Taking child for immoral purposes)

Section 219—

insert—

- (3A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

85 Amendment of s 227B (Distributing prohibited visual recordings)

Section 227B(2), definition *distribute*—

omit.

86 Amendment of s 228 (Obscene publications and exhibitions)

Section 228—

insert—

- (5A) Section 207A, definition *distribute*, does not apply to this section.

[s 87]

87 Amendment of s 228A (Involving child in making child exploitation material)

(1) Section 228A(1), penalty—

omit, insert—

Maximum penalty—

- (a) if the offender uses a hidden network or an anonymising service in committing the offence—25 years imprisonment; or
- (b) otherwise—20 years imprisonment.

(2) Section 228A(2)—

renumber as section 228A(4).

(3) Section 228A—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

88 Amendment of s 228B (Making child exploitation material)

(1) Section 228B(1), penalty—

omit, insert—

Maximum penalty—

- (a) if the offender uses a hidden network or an anonymising service in committing the offence—25 years imprisonment; or
- (b) otherwise—20 years imprisonment.

-
- (2) Section 228B(2)—
renumber as section 228B(4).
- (3) Section 228B—
insert—
- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
 - (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

89 Amendment of s 228C (Distributing child exploitation material)

- (1) Section 228C(1), penalty—
omit, insert—
- Maximum penalty—
- (a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or
 - (b) otherwise—14 years imprisonment.
- (2) Section 228C(2)—
omit, insert—
- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
 - (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

[s 90]

90 Amendment of s 228D (Possessing child exploitation material)

(1) Section 228D, penalty—

omit, insert—

Maximum penalty—

- (a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or
- (b) otherwise—14 years imprisonment.

(2) Section 228D—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

91 Insertion of new ss 228DA–228DC

After section 228D—

insert—

228DA Administering child exploitation material website

- (1) A person who administers a website knowing the website is used to distribute child exploitation material commits a crime.

Maximum penalty—

- (a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or

-
- (b) otherwise—14 years imprisonment.
- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.
- (4) It is a defence to a charge under this section to prove that the person, on becoming aware the website was being used to distribute child exploitation material, took all reasonable steps in the circumstances to prevent other persons from being able to use the website to access child exploitation material.

Examples of steps that may be reasonable in the circumstances—

- telling a police officer the website is being used to distribute child exploitation material and complying with any reasonable direction given by the police officer about what to do in relation to the website
 - shutting the website down
 - modifying the operation of the website so it can not be used to distribute or access child exploitation material
- (5) In this section—
- administer***, a website, includes—
- (a) design, create, manage or maintain the website, part of the website or a function of the website; or
- (b) provide a device to host the website, part of the website or a function of the website; or
- (c) facilitate the operation and use of the website, part of the website or a function of the website.

[s 91]

228DB Encouraging use of child exploitation material website

- (1) A person who, knowing a website is used to distribute child exploitation material, distributes information—
- (a) to encourage someone, whether a particular person or not, to use the website; or
 - (b) to advertise or promote the website to someone, whether a particular person or not;
- commits a crime.

Maximum penalty—

- (a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or
 - (b) otherwise—14 years imprisonment.
- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

228DC Distributing information about avoiding detection

- (1) A person who distributes information about how to avoid detection of, or prosecution for, conduct that involves the commission of a child exploitation material offence commits a crime.

Maximum penalty—

- (a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or

- (b) otherwise—14 years imprisonment.
- (2) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.
- (4) In this section—
child exploitation material offence means an offence against section 228A, 228B, 228C, 228D, 228DA, 228DB or this section.

92 Amendment of s 228E (Defences for ss 228A–228D)

- (1) Section 228E, heading, ‘228D’—

omit, insert—

228DC

- (2) Section 228E(1), ‘or 228D’—

omit, insert—

, 228D, 228DA, 228DB or 228DC

93 Amendment of s 228G (Forfeiture of child exploitation material etc.)

Section 228G(1)(b), ‘or 228D’—

omit, insert—

, 228D, 228DA, 228DB or 228DC

94 Amendment of s 228H (Possession etc. of child exploitation material by law enforcement officer)

Section 228H(1), ‘or 228D’—

[s 95]

omit, insert—

, 228D, 228DA, 228DB or 228DC

95 Amendment of s 229B (Maintaining a sexual relationship with a child)

Section 229B—

insert—

- (6A) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for the crime.

96 Amendment of s 229G (Procuring engagement in prostitution)

Section 229G—

insert—

- (2A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

97 Amendment of s 229H (Knowingly participating in provision of prostitution)

Section 229H—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this

section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

98 Amendment of s 229HB (Carrying on business of providing unlawful prostitution)

Section 229HB—

insert—

- (2A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

99 Amendment of s 229K (Having an interest in premises used for prostitution etc.)

Section 229K—

insert—

- (9) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (10) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

100 Amendment of s 229L (Permitting young person etc. to be at place used for prostitution)

Section 229L—

[s 101]

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

101 Amendment of s 302 (Definition of *murder*)

Section 302—

insert—

- (5) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

102 Amendment of s 303 (Definition of *manslaughter*)

Section 303—

insert—

- (2) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

103 Amendment of s 305 (Punishment of murder)

Section 305—

insert—

- (5) The *Penalties and Sentences Act 1992*, section

161Q also states a circumstance of aggravation for the crime of murder.

104 Amendment of s 306 (Attempt to murder)

Section 306—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

105 Amendment of s 307 (Accessory after the fact to murder)

Section 307—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

106 Amendment of s 308 (Threats to murder in document)

Section 308—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an

[s 107]

offence against this section.

- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

107 Amendment of s 309 (Conspiring to murder)

Section 309—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

108 Amendment of s 310 (Punishment of manslaughter)

Section 310—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for the crime of manslaughter.

109 Amendment of s 314A (Unlawful striking causing death)

Section 314A—

insert—

- (1A) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.

- (1B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

110 Amendment of s 317 (Acts intended to cause grievous bodily harm and other malicious acts)

Section 317—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

111 Amendment of s 317A (Carrying or sending dangerous goods in a vehicle)

Section 317A—

insert—

- (2A) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

112 Amendment of s 320 (Grievous bodily harm)

- (1) Section 320(2) and (3)—

[s 113]

omit.

- (2) Section 320(3A), ‘section 108B also states’—

omit, insert—

sections 108B and 161Q state

- (3) Section 320(4)—

omit, insert—

- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

113 Amendment of s 320A (Torture)

Section 320A—

insert—

- (1A) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (1B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

114 Amendment of s 321 (Attempting to injure by explosive or noxious substances)

Section 321—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this

section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

115 Amendment of s 339 (Assaults occasioning bodily harm)

(1) Section 339(4), ‘section 108B also states’—

omit, insert—

sections 108B and 161Q also state

(2) Section 339—

insert—

(5) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

116 Amendment of s 340 (Serious assaults)

(1) Section 340(1A) and (1B)—

omit.

(2) Section 340(1C), ‘section 108B also states’—

omit, insert—

sections 108B and 161Q also state

(3) Section 340—

insert—

(1D) An indictment charging an offence against subsection (1)(b) with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

(4) Section 340(3), definition *participant*—

[s 117]

omit.

117 Amendment of s 349 (Rape)

Section 349—

insert—

- (4) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (5) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

118 Amendment of s 350 (Attempt to commit rape)

Section 350—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

119 Amendment of s 351 (Assault with intent to commit rape)

Section 351—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.

- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

120 Amendment of s 352 (Sexual assaults)

Section 352—

insert—

- (4) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (5) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

121 Amendment of s 354 (Kidnapping)

Section 354—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

122 Amendment of s 354A (Kidnapping for ransom)

Section 354A—

insert—

[s 123]

- (5) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (6) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

123 Amendment of s 359 (Threats)

Section 359—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

124 Amendment of s 359E (Punishment of unlawful stalking)

Section 359E—

insert—

- (5) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (6) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

125 Amendment of s 398 (Punishment of stealing)

Section 398—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

126 Amendment of s 408C (Fraud)

(1) Section 408C(1)—

insert—

Maximum penalty—5 years imprisonment.

(2) Section 408C(2)—

omit, insert—

- (2) The offender is liable to imprisonment for 14 years if, for an offence against subsection (1)—
 - (a) the offender is a director or officer of a corporation, and the victim is the corporation; or
 - (b) the offender is an employee of the victim; or
 - (c) any property in relation to which the offence is committed came into the possession or control of the offender subject to a trust, direction or condition that it should be applied to any purpose or be paid to any person specified in the terms of trust, direction or condition or came into the offender's possession on account of any other person; or

[s 127]

- (d) the property, or the yield to the offender from the dishonesty, or the detriment caused, is of a value of at least \$30,000 but less than \$100,000.
- (2A) The offender is liable to imprisonment for 20 years, if, for an offence against subsection (1)—
 - (a) the property, or the yield to the offender from the dishonesty, or the detriment caused, is of a value of at least \$100,000; or
 - (b) the offender carries on the business of committing the offence.
- (2B) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (2C) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

127 Amendment of s 408D (Obtaining or dealing with identification information)

- (1) Section 408D(1AA) and (1AB)—
omit.
- (2) Section 408D(1) and (1A), penalty, ‘3 years’—
omit, insert—
5 years
- (3) Section 408D—
insert—
 - (1B) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
 - (1C) An indictment charging an offence against this

section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

- (4) Section 408D(7), definition *participant*—
omit.

128 Amendment of s 409 (Definition of robbery)

Section 409—

insert—

- (2) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

129 Amendment of s 411 (Punishment of robbery)

Section 411—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for the crime of robbery.

130 Amendment of s 412 (Attempted robbery)

Section 412—

insert—

- (4) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (5) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*,

[s 131]

section 161Q may not be presented without the consent of a Crown Law Officer.

131 Amendment of s 415 (Extortion)

Section 415—

insert—

- (1A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (5A) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

132 Amendment of s 419 (Burglary)

Section 419—

insert—

- (5) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (6) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

133 Amendment of s 433 (Receiving tainted property)

Section 433—

insert—

- (1A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation

for an offence against this section.

- (1B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

134 Amendment of s 552A (Charges of indictable offences that must be heard and decided summarily on prosecution election)

Section 552A(1)(a)—

insert—

- section 205A

135 Amendment of s 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial)

Section 552B(1)—

insert—

- (ca) an offence against section 60A, 60B, 76 or 77B;

136 Amendment of s 552D (When Magistrates Court must abstain from jurisdiction)

- (1) Section 552D(2A)—

omit, insert—

- (2A) A Magistrates Court must abstain from dealing summarily with a charge of a prescribed offence if the defendant is alleged to have committed the offence with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q.

- (2) Section 552D—

[s 137]

insert—

(4) In this section—

prescribed offence see the *Penalties and Sentences Act 1992*, section 161N.

137 Amendment of s 590AD (Definitions for ch div 3)

Section 590AD, definition *spent conviction—*

omit.

138 Amendment of s 708A (Criteria for recommending an entity be declared a criminal organisation)

(1) Section 708A—

insert—

(1A) For this section, the *Penalties and Sentences Act 1992*, section 161N, definitions *honorary member*, *prospective member* and *office holder* apply as if a reference in the definitions to an organisation were a reference to an entity.

(2) Section 708A(2), definitions *participant* and *serious criminal activity—*

omit, insert—

participant, in an entity, means a person—

(a) who—

(i) has been accepted as a member of the entity, whether informally or through a process set by the entity; and

Example of a process set by an entity—

paying a fee or levy

(ii) has not ceased to be a member of the entity; or

(b) who is an honorary member of the entity; or

-
- (c) who is a prospective member of the entity;
or
 - (d) who is an office holder of the entity; or
 - (e) who identifies himself or herself in any way
as belonging to the entity; or
 - (f) whose conduct in relation to the entity
would reasonably lead someone else to
consider the person to be a participant in the
entity.

serious criminal activity means conduct
constituting an indictable offence for which the
maximum penalty is at least 7 years
imprisonment.

139 Insertion of new pt 9, ch 96

Part 9—

insert—

Chapter 96 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

736 Review of consorting provisions

- (1) The Minister must, as soon as practicable after the
day that is 5 years after the commencement of the
consorting provisions, appoint a retired judge (the
reviewer) to—
 - (a) review the operation of the consorting
provisions; and

[s 139]

- (b) prepare, and give the Minister, a written report on the outcome of the review.
- (2) The terms of reference for the review are the terms decided by the Minister.
- (3) Without limiting subsection (2), the terms of reference for the review must state the following matters—
 - (a) the object of the review is for the reviewer to decide whether the consorting provisions have been effective in disrupting serious and organised crime;
 - (b) if the reviewer decides the consorting provisions have not been effective in disrupting serious and organised crime, the reviewer must recommend any amendments of the provisions the reviewer considers necessary to improve the effectiveness of the provisions;
 - (c) in conducting the review, the reviewer must consider whether any demographic has been disproportionately or adversely affected by the consorting provisions.

Examples of a demographic—

Aboriginal people, Torres Strait Islanders,
homeless people, drug dependent people

- (4) The Minister must, within 14 sitting days after receiving the reviewer's report for the review, table a copy of the report in the Legislative Assembly.
- (5) In this section—

consorting provisions means—

 - (a) part 2, chapter 9A; and
 - (b) the following provisions of the *Police Powers and Responsibilities Act 2000*—

- section 30(i)
- section 32(2)(b)
- section 41(p)
- section 41A
- section 43B
- chapter 2, part 6A
- section 60(3)(k).

retired judge means—

- (a) a retired Supreme Court judge; or
- (b) a retired District Court judge.

737 Regulation made by the Serious and Organised Crime Legislation Amendment Act 2016

- (1) This section applies to the regulation made by the *Serious and Organised Crime Legislation Amendment Act 2016*, section 494 and schedule 2.
- (2) The regulation is subordinate legislation.
- (3) The *Statutory Instruments Act 1992*, part 6 does not apply to the regulation.

Division 3 Amendments commencing 3 months after assent

140 Amendment of s 1 (Definitions)

Section 1—

insert—

consort, for part 2, chapter 9A, see section 77A.

conviction, for part 2, chapter 9A, see section 77.

[s 141]

recognised offender, for part 2, chapter 9A, see section 77.

relevant offence, for part 2, chapter 9A, see section 77.

141 Insertion of new pt 2, ch 9A

Part 2—

insert—

Chapter 9A Consorting

77 Definitions for chapter

In this chapter—

consort see section 77A.

conviction means a finding of guilt, or the acceptance of a plea of guilty, by a court.

recognised offender means an adult who has a recorded conviction, other than a spent conviction, for a relevant offence (whether on indictment or summary conviction).

relevant offence means—

- (a) an indictable offence for which the maximum penalty is at least 5 years imprisonment, including an offence against a repealed provision of an Act; or
- (b) an offence against—
 - (i) any of the following provisions of this Code—
 - section 61(1), if the penalty, paragraph (c) applies
 - section 69

- section 75
 - section 77B
 - section 130
 - section 229H
 - section 229HC
 - section 229I
 - section 229K
 - section 317A(2)
 - section 327
 - section 355
 - section 408D
 - section 413
 - section 414
 - section 470A; or
- (ii) any of the following provisions of the *Weapons Act 1990*—
- section 50(1), if the penalty, paragraph (c)(ii) or (iii) applies
 - section 50B(1), if the penalty, paragraph (c)(iii) applies
 - section 57(3) or (4)
 - section 58
 - section 61
 - section 62
 - section 63
 - section 69(1A), if the penalty, paragraph (c) applies
 - section 151B
 - section 151D; or

[s 141]

- (c) an offence against the law of another State or the Commonwealth, or a place outside Australia, that, if the offence had been committed in Queensland, would be a relevant offence under paragraph (a) or (b); or
- (d) an offence against either of the following provisions—
 - the *Criminal Code* (Cwlth), section 102.8
 - the *Crimes Act 1900* (NSW), section 310J.

77A Meaning of *consort*

- (1) A person *consorts* with another person if the person associates with the other person in a way that involves seeking out, or accepting, the other person's company.
- (2) For subsection (1), the person's association with the other person need not have a purpose related to criminal activity.
- (3) Also, for subsection (1), it does not matter whether the person's association with the other person happens in person or in another way, including, for example, electronically.

77B Habitually consorting with recognised offenders

- (1) A person commits a misdemeanour if—
 - (a) the person habitually consorts with at least 2 recognised offenders, whether together or separately; and
 - (b) at least 1 occasion on which the person consorts with each recognised offender

mentioned in paragraph (a) happens after the person has been given an official warning for consorting in relation to the offender.

Maximum penalty—300 penalty units or 3 years imprisonment.

- (2) For subsection (1), a person does not *habitually consort* with a recognised offender unless the person consorts with the offender on at least 2 occasions.
- (3) This section does not apply to a child.
- (4) In this section—

official warning, for consorting, see the *Police Powers and Responsibilities Act 2000*, section 53BAA.

77C Particular acts of consorting to be disregarded

- (1) In a proceeding against a person for an offence against section 77B(1), the following acts of consorting must be disregarded if the consorting was reasonable in the circumstances—
 - (a) consorting with a recognised offender who is a close family member of the person;
 - (b) consorting with a recognised offender while the person is—
 - (i) genuinely conducting a lawful business or genuinely engaging in lawful employment or a lawful occupation; or
 - (ii) genuinely receiving education or training at an educational institution; or
 - (iii) genuinely obtaining education or training at an educational institution for a dependent child of the person; or

[s 141]

- (iv) receiving a health service; or
 - (v) obtaining a health service for a dependent child of the person; or
 - (vi) obtaining legal services; or
 - (vii) complying with a court order; or
 - (viii) being detained in lawful custody.
- (2) Proof that the consorting was reasonable in the circumstances lies on the person.
- (3) For subsection (1), it is not reasonable for a person to consort with a recognised offender if the purpose (or 1 of the purposes) of the consorting is related to criminal activity.
- (4) In this section—

Australian Association of Social Workers means Australian Association of Social Workers Ltd ACN 008 576 010.

Australian Register of Counsellors and Psychotherapists means Australian Register of Counsellors and Psychotherapists Pty Ltd ACN 110 047 197.

child includes step-child.

close family member, of a person—

- (a) means—
- (i) a spouse of the person; or
 - (ii) someone with whom the person shares parental responsibility for a child; or
 - (iii) a parent or step-parent of the person; or
 - (iv) a child of the person; or
 - (v) a grandparent or step-grandparent of the person; or

-
- (vi) a grandchild or step-grandchild of the person; or
 - (vii) a brother, sister, stepbrother or stepsister of the person; or
 - (viii) an aunt or uncle of the person; or
 - (ix) a niece or nephew of the person; or
 - (x) a first cousin of the person; or
 - (xi) a brother-in-law, sister-in-law, parent-in-law, son-in-law or daughter-in-law of the person; and
- (b) includes—
- (i) for an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a person mentioned in paragraph (a); and
 - (ii) for a Torres Strait Islander—a person who, under Island custom, is regarded as a person mentioned in paragraph (a).

dependent child, of a person, means a child of the person who is dependent on the person for support.

educational institution means—

- (a) an approved education and care service under the Education and Care Services National Law (Queensland); or
- (b) a State educational institution or non-State school under the *Education (General Provisions) Act 2006*; or
- (c) a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth); or

[s 142]

- (d) a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

health service means a service for managing a person's physical or mental health, including drug and alcohol counselling, that is provided by—

- (a) a registered health practitioner or student under the Health Practitioner Regulation National Law (Queensland); or
- (b) a counsellor or psychotherapist registered with the Australian Register of Counsellors and Psychotherapists; or
- (c) a social worker registered with the Australian Association of Social Workers.

legal services means legal services within the meaning of the *Legal Profession Act 2007* that are provided by an Australian legal practitioner within the meaning of that Act.

Division 4 Amendments commencing 2 years after assent

142 Amendment of s 1 (Definitions)

Section 1, definition *criminal organisation*—

omit, insert—

criminal organisation see the *Penalties and Sentences Act 1992*, section 161O.

143 Omission of s 60A (Participants in criminal organisation being knowingly present in public places)

Section 60A—

omit.

144 Omission of s 60B (Participants in criminal organisation entering prescribed places and attending prescribed events)

Section 60B—

omit.

145 Omission of s 708A (Criteria for recommending an entity be declared a criminal organisation)

Section 708A—

omit.

146 Insertion of new s 738

Part 9, chapter 96, as inserted by this Act—

insert—

738 Offences against ss 60A and 60B charged before repeal

- (1) This section applies if—
 - (a) a person was charged with an offence against section 60A or 60B before the section was repealed; and
 - (b) at the time of the repeal, the proceeding for the offence had not been finally decided.
- (2) The proceeding for the offence may be continued, and the person may be punished for the offence, as if the section had not been repealed.
- (3) To remove any doubt, it is declared that section 11 does not limit subsection (2).

Part 8

Amendment of Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

147 Act amended

This part amends the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.

148 Amendment of s 2 (Commencement)

(1) Section 2(1)(f)—

omit, insert—

(f) part 8.

(2) Section 2(3)—

omit, insert—

(3) Part 8 commences on 1 July 2017.

149 Omission of ss 57–63

Sections 57 to 63—

omit.

Editor's note—

Legislation ultimately amended—

- *Electrical Safety Act 2002*

150 Omission of ss 65–68

Sections 65 to 68—

omit.

Editor's note—

Legislation ultimately amended—

- *Electrical Safety Act 2002*

151 Omission of ss 70 and 71

Sections 70 and 71—

omit.

Editor's note—

Legislation ultimately amended—

- *Electrical Safety Act 2002*

152 Omission of pt 14 (Amendment of Queensland Building Services Authority Act 1991)

Part 14—

omit.

Editor's note—

Legislation ultimately amended—

- *Queensland Building and Construction Commission Act 1991*

153 Omission of pt 24 (Amendment of Work Health and Safety Act 2011)

Part 24—

omit.

Editor's note—

Legislation ultimately amended—

- *Work Health and Safety Act 2011*

Part 9 Amendment of Criminal Proceeds Confiscation Act 2002

154 Act amended

This part amends the *Criminal Proceeds Confiscation Act 2002*.

155 Amendment of s 250 (Money laundering)

(1) Section 250(2B)(a), ‘criminal’—

omit, insert—

unlawful

(2) Section 250—

insert—

(3A) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.

(3B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

156 Amendment of s 251 (Charging of money laundering)

(1) Section 251(1) to (3)—

omit.

(2) Section 251(4) and (5)—

renumber as section 251(1) and (2).

157 Insertion of new ch 12, pt 5

Chapter 12—

insert—

**Part 5 Transitional provision
for Serious and
Organised Crime
Legislation
Amendment Act 2016**

**295 Relevant money laundering proceedings
started before commencement**

- (1) This section applies if—
 - (a) a relevant money laundering proceeding was started but not decided before the commencement; and
 - (b) the Attorney-General's written consent for the proceeding had not been obtained under section 251(3) as in force before the commencement.
- (2) The proceeding may be heard and decided without the Attorney-General's written consent.
- (3) In this section—

relevant money laundering proceeding means a proceeding for money laundering started other than by complaint under the *Justices Act 1886*.

**Part 10 Amendment of Disability
Services Act 2006**

158 Act amended

This part amends the *Disability Services Act 2006*.

[s 159]

159 Amendment of sch 2 (Current serious offences)

Schedule 2, item 4, table—

insert—

- 228DA Administering child
exploitation material website
- 228DB Encouraging use of child
exploitation material website
- 228DC Distributing information about
avoiding detection

160 Amendment of sch 4 (Current disqualifying offences)

Schedule 4, item 4, table—

insert—

- 228DA Administering child
exploitation material website
- 228DB Encouraging use of child
exploitation material website
- 228DC Distributing information about
avoiding detection

**Part 11 Amendment of District Court of
Queensland Act 1967**

161 Act amended

This part amends the *District Court of Queensland Act 1967*.

162 Amendment of s 61 (Criminal jurisdiction if maximum penalty more than 20 years)

(1) Section 61(2)—

insert—

- (c) an offence under the *Drugs Misuse Act 1986*, section 5 if the dangerous drug the subject of the charge is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2.

(2) Section 61—

insert—

- (4) Also, subsection (5) applies in relation to a person charged with a prescribed offence if the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q is alleged to exist in relation to the offence.
- (5) For applying subsection (1) to the person, the mandatory component of the sentence that must be imposed for the prescribed offence under the *Penalties and Sentences Act 1992*, section 161R(2) must be disregarded.
- (6) In this section—
prescribed offence see the *Penalties and Sentences Act 1992*, section 161N.

Part 12 Amendment of Drugs Misuse Act 1986

163 Act amended

This part amends the *Drugs Misuse Act 1986*.

Note—

See also the amendments in schedule 1.

[s 164]

164 Amendment of s 5 (Trafficking in dangerous drugs)

(1) Section 5(1), penalty—

omit, insert—

Maximum penalty—25 years imprisonment.

(2) Section 5(2) and (3)—

omit, insert—

(2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.

(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

165 Amendment of s 6 (Supplying dangerous drugs)

Section 6—

insert—

(3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.

(4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

166 Amendment of s 7 (Receiving or possessing property obtained from trafficking or supplying)

Section 7—

insert—

(2A) The *Penalties and Sentences Act 1992*, section

161Q states a circumstance of aggravation for an offence against this section.

- (2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

167 Amendment of s 8 (Producing dangerous drugs)

Section 8—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

168 Amendment of s 9B (Supplying relevant substances or things)

Section 9B—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

[s 169]

169 Amendment of s 9C (Producing relevant substances or things)

Section 9C—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

170 Amendment of s 9D (Trafficking in relevant substances or things)

Section 9D—

insert—

- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

171 Amendment of s 13 (Certain offences may be dealt with summarily)

Section 13—

insert—

- (2A) Despite subsections (1) and (2), proceedings may not be taken summarily in relation to a charge of an offence defined in section 6, 7, 8, 9B or 9C if the prosecution alleges the offence was

committed with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q.

Part 13 **Amendment of Evidence Act 1977**

172 **Act amended**

This part amends the *Evidence Act 1977*.

173 **Amendment of s 21A (Evidence of special witnesses)**

(1) Section 21A(1), definitions *criminal organisation*, *prescribed proceeding* and *serious criminal offence*—

omit.

(2) Section 21A(1)—

insert—

criminal organisation see the *Penalties and Sentences Act 1992*, section 161O.

participant, in a criminal organisation, see the *Penalties and Sentences Act 1992*, section 161P.

serious criminal offence means—

(a) an indictable offence punishable by at least 7 years imprisonment, including an offence against a repealed provision of an Act; or

(b) a prescribed offence as defined under the *Penalties and Sentences Act 1992*, section 161N, other than an offence mentioned in paragraph (a), charged with a circumstance of aggravation stated in section 161Q of that Act.

(3) Section 21A(1), definition *special witness*, paragraph (c), ‘member of’—

[s 174]

omit, insert—

participant in

(4) Section 21A(2)(a), ‘or other prescribed’—

omit.

174 Insertion of new pt 9, div 7

Part 9—

insert—

Division 7 Serious and Organised Crime Legislation Amendment Act 2016

148 Special witnesses

An order or direction made or given under section 21A before the commencement continues to have effect as an order or direction made or given under the section as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*.

Part 14 Amendment of Liquor Act 1992

175 Act amended

This part amends the *Liquor Act 1992*.

Note—

See also the amendments in schedule 1.

176 Amendment of s 4 (Definitions)

(1) Section 4, definitions *affected by bankruptcy action, assessment period, criminal organisation, declared criminal*

organisation, identified participant, prostitution and section 228B decision—

omit.

(2) Section 4—

insert—

control order see the *Penalties and Sentences Act 1992*, section 161N.

criminal intelligence see the Criminal Code, section 86(3).

identified organisation, for part 6, division 5, see section 173EA.

prescribed offence means—

- (a) an offence against the Criminal Code, section 76; or
- (b) an offence mentioned in the Criminal Code, part 2, chapter 9A; or
- (c) an offence against the *Peace and Good Behaviour Act 1982*, section 32, 54 or 75; or
- (d) an offence that is—
 - (i) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and
 - (ii) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q; or
- (e) an offence against the *Penalties and Sentences Act 1992*, section 161ZI.

prohibited person, for part 6, division 5, see section 173EA.

registered corresponding control order see the

[s 177]

Penalties and Sentences Act 1992, section 161N.

- (3) Section 4, definition *disqualified person*, ‘or 228B’—
omit.

177 Omission of s 11B (Particular entities not exempt)

Section 11B—
omit.

178 Amendment of s 13 (Exemption for the sale of liquor at fundraising event)

Section 13(4)—
omit, insert—

- (4) However, an entity is not an *eligible entity* if, when the fundraising event is held, the entity or an executive officer of the entity is disqualified from holding a licence under part 5, division 3, subdivision 3.

179 Amendment of pt 2, hdg (Jurisdiction of tribunal and application of Judicial Review Act 1991)

Part 2, heading, ‘and application of Judicial Review Act 1991’—
omit.

180 Amendment of s 21 (Jurisdiction and powers of tribunal)

- (1) Section 21(1)(l), ‘or 142ZQA’—
omit.
- (2) Section 21(1)(u)—
omit, insert—

- (u) a withdrawal of an approval under section 139D; or

181 Omission of pt 2, div 3 (Review of decisions relating to particular disqualified persons)

Part 2, division 3—

omit.

182 Replacement of ss 47B and 47C

Sections 47B and 47C—

omit, insert—

47B Exchange of information

- (1) The commissioner may enter into an arrangement (an *information-sharing arrangement*) with the police commissioner for the purpose of sharing or exchanging information—
 - (a) held by the commissioner or the police commissioner; or
 - (b) to which the commissioner or the police commissioner has access.
- (2) An information-sharing arrangement may relate only to information that assists—
 - (a) the commissioner perform the commissioner's functions under this Act; or
 - (b) the police commissioner perform the police commissioner's functions.
- (3) Under an information-sharing arrangement, the commissioner and the police commissioner are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and

[s 182]

- (b) disclose information to the other party.
- (4) The commissioner may use criminal intelligence given to the commissioner under an information-sharing arrangement only for monitoring compliance with this Act.
- (5) In this section—
information does not include information given to the police commissioner or commissioner, or to which the police commissioner or commissioner has access, under the *Crime and Corruption Act 2001*.

47C Police commissioner to notify of charges

- (1) This section applies if—
 - (a) the commissioner gives the police commissioner the name of a relevant person; and
 - (b) the police commissioner reasonably suspects a person who is charged with an offence is the relevant person.
- (2) The police commissioner must give the commissioner a written notice about the charge.
- (3) The notice must state the following—
 - (a) the name and address of the person charged;
 - (b) the person's date of birth;
 - (c) particulars of the offence the person is charged with;
 - (d) the date of the charge.
- (4) The commissioner may confirm the suspicion of the police commissioner mentioned in subsection (1)(b).
- (5) In this section—

associate, of a holder of an adult entertainment permit, means an individual who—

- (a) is a member of the holder's family; or
- (b) has entered into a business arrangement or relationship with the holder for the provision of adult entertainment; or
- (c) is the owner or lessor, either alone or jointly, of premises used or proposed to be used for the provision of adult entertainment under the adult entertainment permit; or
- (d) if the holder of the adult entertainment permit is an executive officer of a corporation—is another executive officer of the corporation.

relevant person means—

- (a) an approved manager; or
- (b) an adult entertainment controller; or
- (c) an individual who—
 - (i) is a licensee, permittee or approved operator; or
 - (ii) holds a licence or permit on behalf of an unincorporated association; or
 - (iii) holds an approval mentioned in section 153(1) or (3); or
 - (iv) for a licence or permit held on behalf of a partnership—is a partner in the partnership; or
- (d) an executive officer of a corporation or unincorporated association that—
 - (i) is a licensee, permittee or approved operator; or
 - (ii) holds an approval mentioned in section 153(1) or (3); or

[s 183]

- (e) an associate of a holder of an adult entertainment permit.

183 Amendment of s 107 (Restrictions on grant of licence or permit)

- (1) Section 107(1)—

insert—

- (d) whether the applicant has been convicted of a prescribed offence; and
- (e) if the applicant is, or has been, the subject of a control order or registered corresponding control order—the terms of the order.

- (2) Section 107(6)—

omit, insert—

- (6) A report under subsection (5)(a) must—

- (a) include reference to or disclosure of convictions of the applicant or person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6; and
- (b) if the applicant or person is, or has been, the subject of a control order or registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.

- (6A) For subsection (1), the commissioner may not have regard to criminal intelligence in deciding whether a person is, or continues to be, a fit and proper person to hold a licence or permit under this Act.

- (3) Section 107(6A) and (7)—

renumber as section 107(7) and (8).

184 Amendment of s 107E (Suitability of applicant for adult entertainment permit)

(1) Section 107E(1)(b)—

insert—

(iii) a prescribed offence;

(2) Section 107E(1)(c)—

insert—

(iii) a prescribed offence;

(3) Section 107E(1)(d)—

insert—

(iii) a prescribed offence;

(4) Section 107E(1)(h) to (k)—

omit, insert—

(h) whether the applicant is a disqualified person;

(i) if the applicant or an associate of the applicant is, or has been, the subject of a control order or registered corresponding control order—the terms of the order;

(5) Section 107E(1)(l)—

renumber as section 107E(1)(j).

(6) Section 107E—

insert—

(3) For subsection (1), the commissioner may not have regard to criminal intelligence in deciding whether a person is, or continues to be, a suitable person to hold an adult entertainment permit under this Act.

[s 185]

185 Amendment of s 107F (Application to be referred to police commissioner)

(1) Section 107F(2)(a)—

omit, insert—

(a) must make inquiries about the criminal history of the applicant, including whether the applicant is, or has been, the subject of a control order or registered corresponding control order; and

(aa) must make inquiries about the criminal history of each associate of the applicant, including whether the associate is, or has been, the subject of a control order or registered corresponding control order; and

(2) Section 107F(2)(a) to (b)—

renumber as section 107F(2)(a) to (c).

(3) Section 107F(5)—

omit, insert—

(5) The police commissioner's report must—

(a) include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6; and

(b) if the applicant or an associate of the applicant is, or has been, the subject of a control order or registered corresponding control order—

(i) state the details of the order; or

(ii) be accompanied by a copy of the order.

186 Amendment of s 129 (Applications to continue trading in certain circumstances)

Section 129(2)(e)—

omit.

187 Amendment of s 134 (Cancellation, suspension or variation of permits)

(1) Section 134(1)—

insert—

(c) the permittee is not, or is no longer, a fit and proper person to hold the permit.

(2) Section 134—

insert—

(2B) For subsection (1)(c), the commissioner may have regard to the matters mentioned in section 107 to which the commissioner must have regard in deciding whether an applicant is a fit and proper person to hold a permit.

(3) Section 134(3)—

omit, insert—

(3) The commissioner must immediately cancel a permit if the commissioner is satisfied the permittee has become a disqualified person.

188 Replacement of ss 134A and 134B

Sections 134A and 134B—

omit, insert—

134A Ground for taking relevant action relating to adult entertainment permits

The commissioner may take relevant action for an adult entertainment permit on the ground the person who holds the permit is no longer a suitable person to provide adult entertainment.

[s 189]

134B Show cause notice

- (1) This section applies if, having regard to the relevant matters, the commissioner reasonably believes a ground for taking relevant action for an adult entertainment permit exists.
- (2) The commissioner must give the person who holds the permit a written notice that—
 - (a) states the relevant action relating to the permit that the commissioner proposes to take; and
 - (b) states the grounds for the relevant action; and
 - (c) states an outline of the facts and circumstances forming the basis for the grounds; and
 - (d) invites the person to show within a stated period, not less than 14 days after the notice is given to the person, why the relevant action should not be taken.
- (3) In this section—

relevant matters means the matters mentioned in section 107E to which the commissioner must have regard in deciding whether an applicant is a suitable person to provide adult entertainment.

189 Amendment of s 134C (Decision about relevant action relating to permit)

- (1) Section 134C, heading, before ‘permit’—

insert—

adult entertainment

- (2) Section 134C(1), ‘permit, the’—

omit, insert—

adult entertainment permit, the

-
- (3) Section 134C(2)—
omit.
- (4) Section 134C(4), ‘(3)’—
omit, insert—
(2)
- (5) Section 134C(3) and (4)—
renumber as section 134C(2) and (3).

190 Omission of s 134D (Urgent suspension)

Section 134D—
omit.

191 Amendment of s 135 (Summary cancellation, suspension or variation)

Section 135(1), ‘134, 134C or 134D’—
omit, insert—
134 or 134C

192 Amendment of s 136 (Grounds for disciplinary action)

- (1) Section 136(1)(b)—
insert—
(ii) a prescribed offence; or
- (2) Section 136(1)(e), ‘licence;’—
omit, insert—

licence, having regard to the matters mentioned in section 107 to which the commissioner must have regard in deciding whether an applicant is not a disqualified person and is a fit and proper person to hold a licence.

[s 193]

(3) Section 136(2)—
omit.

193 Amendment of s 137 (Procedure for taking disciplinary action in relation to licence)

Section 137(3) and (4)—
omit.

194 Amendment of s 137A (Decision about disciplinary action)

Section 137A(1A)—
omit.

195 Amendment of s 137C (Urgent suspension)

Section 137C(2)—
omit.

196 Omission of s 137CA (Immediate cancellation of particular licences)

Section 137CA—
omit.

197 Omission of s 139B (Urgent suspension of approval)

Section 139B—
omit.

198 Replacement of s 139C (Show cause notice for withdrawal of approval)

Section 139C—
omit, insert—

139C Show cause notice for withdrawal of approval

- (1) This section applies if, having regard to the relevant matters, the commissioner reasonably believes the lessee, sublessee, franchisee or manager under the relevant agreement—
 - (a) is a disqualified person; or
 - (b) is not, or is no longer, a fit and proper person to lease, sublease, franchise or manage the licensed premises.
- (2) The commissioner must give the licensee and the lessee, sublessee, franchisee or manager a written notice that—
 - (a) states the commissioner proposes to withdraw the commissioner's approval of the agreement; and
 - (b) states the grounds for the proposed withdrawal; and
 - (c) invites the licensee, lessee, sublessee, franchisee or manager to show within a stated period, not less than 14 days after the notice is given to the person, why the approval should not be withdrawn.
- (3) In this section—

relevant matters means the matters mentioned in section 107 to which the commissioner must have regard in deciding whether an applicant is not a disqualified person and is a fit and proper person to hold a licence.

199 Amendment of s 139D (Decision about withdrawing approval of relevant agreement)

Section 139D(1)(a), '139B(1)'—

omit, insert—

139C(1)

[s 200]

200 Omission of s 139E (Immediate withdrawal of approval and direction to terminate relevant agreement)

Section 139E—

omit.

201 Amendment of s 139F (Requirement to terminate relevant agreement on withdrawal of approval)

Section 139F(1), ‘or 139E’—

omit.

202 Amendment of s 142R (Deciding application)

- (1) Section 142R(2), ‘not a disqualified person mentioned in section 228B(1) and is’—

omit.

- (2) Section 142R(3)—

insert—

- (d) whether the applicant has been convicted of a prescribed offence;
- (e) if the applicant is, or has been, the subject of a control order or registered corresponding control order—the terms of the order.

- (3) Section 142R—

insert—

- (3A) However, the commissioner may not have regard to criminal intelligence in deciding whether a person is a suitable person to hold the approval.

- (4) Section 142R(4), ‘history.’—

omit, insert—

history, including whether the person is, or has been, the subject of a control order or registered corresponding control order.

(5) Section 142R(5)—

omit, insert—

(5) A report under subsection (4) must—

- (a) include reference to or disclosure of convictions of the applicant mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6; and
- (b) if the applicant is, or has been, the subject of a control order or registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.

203 Omission of s 142ZAA (Immediate cancellation—identified participants)

Section 142ZAA—

omit.

204 Amendment of s 142ZK (Deciding application)

(1) Section 142ZK(2), ‘not a disqualified person mentioned in section 228B(1) and is’—

omit.

(2) Section 142ZK(3)(b)—

insert—

(iii) a prescribed offence;

(3) Section 142ZK(3)—

insert—

(g) if the applicant is, or has been, the subject of a control order or registered corresponding control order—the terms of the order.

[s 205]

(4) Section 142ZK—

insert—

(3A) However, the commissioner may not have regard to criminal intelligence in deciding whether a person is a suitable person to hold the approval.

205 Amendment of s 142ZO (Police commissioner's information report)

(1) Section 142ZO(3)(a)—

omit, insert—

(a) make inquiries about the person's criminal history, including whether the person is, or has been, the subject of a control order or registered corresponding control order;

(2) Section 142ZO(5)(a)—

omit, insert—

(a) must—

(i) include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6; and

(ii) if the person is, or has been, the subject of a control order or registered corresponding control order—

(A) state the details of the order; or

(B) be accompanied by a copy of the order; and

206 Amendment of s 142ZQ (Grounds for suspension or cancellation)

(1) Section 142ZQ(b)—

insert—

(iii) a prescribed offence; or

(2) Section 142ZQ—

insert—

(2) For subsection (1)(d), the commissioner may have regard to the matters mentioned in section 142ZK to which the commissioner may have regard in deciding whether an applicant is a suitable person to hold the approval.

207 Omission of s 142ZQA (Immediate cancellation of approval—identified participants)

Section 142ZQA—

omit.

208 Amendment of pt 6, div 5, hdg (Prohibited items for declared criminal organisations)

Part 6, division 5, heading, ‘declared criminal’—

omit, insert—

identified

209 Amendment of s 173EA (Definitions for div 5)

(1) Section 173EA, definition *declared criminal organisation*—

omit.

(2) Section 173EA—

insert—

identified organisation means an entity declared to be an identified organisation under section 173EAA.

prohibited person means a person who is wearing or carrying a prohibited item.

[s 210]

(3) Section 173EA, definition *prohibited item*, ‘a declared criminal’—

omit, insert—

an identified

210 Insertion of new s 173EAA

Part 6, division 5, after section 173EA—

insert—

173EAA Identified organisations

- (1) A regulation may declare an entity to be an identified organisation.
- (2) The Minister may recommend the making of a regulation under subsection (1) about an entity only if the Minister is satisfied the wearing or carrying of a proposed prohibited item by a person in a public place—
 - (a) may cause members of the public to feel threatened, fearful or intimidated; or
 - (b) may otherwise have an undue adverse effect on the health or safety of members of the public, or the amenity of the community, including by increasing the likelihood of public disorder or acts of violence.
- (3) Also, if the Minister is not the Attorney-General, the Minister may recommend the making of a regulation under subsection (1) only with the Attorney-General’s agreement.
- (4) Without limiting subsection (2), for forming a satisfaction mentioned in subsection (2), the Minister must have regard to whether any person has engaged in serious criminal activity, or committed a relevant offence of which the person has been convicted, while the person was a participant in the entity.

(5) In this section—

participant, in an entity, means a person—

(a) who—

(i) has been accepted as a member of the entity, whether informally or through a process set by the entity; and

Example of a process set by an entity—

paying a fee or levy

(ii) has not ceased to be a member of the entity; or

(b) who is an honorary member of the entity; or

(c) who is a prospective member of the entity;
or

(d) who is an office holder of the entity; or

(e) who identifies himself or herself in any way as belonging to the entity; or

(f) whose conduct in relation to the entity would reasonably lead someone else to consider the person to be a participant in the entity.

proposed prohibited item means an item that would be a prohibited item if the entity were an identified organisation.

public place see the *Summary Offences Act 2005*, schedule 2.

relevant offence means an offence involving—

(a) a public act of violence to a person; or

(b) a public act of damage to property; or

(c) disorderly, offensive, threatening or violent behaviour in public.

serious criminal activity means conduct constituting an indictable offence for which the

[s 211]

maximum penalty is at least 7 years imprisonment.

211 Amendment of s 173EB (Exclusion of persons wearing or carrying prohibited items)

- (1) Section 173EB, heading, ‘persons wearing or carrying prohibited items’—

omit, insert—

prohibited persons

- (2) Section 173EB, ‘a person who is wearing or carrying a prohibited item’—

omit, insert—

a prohibited person

- (3) Section 173EB—

insert—

- (2) A person mentioned in subsection (1)(a), (b) or (c) does not commit an offence against subsection (1) if—

(a) the person had taken reasonable steps or action to—

(i) refuse the prohibited person entry to the premises; or

(ii) exclude or remove the prohibited person from the premises; or

(b) at the time of the offence, the person reasonably believed—

(i) the person’s safety would have been endangered if the person had—

(A) refused the prohibited person entry to the premises; or

- (B) excluded or removed the prohibited person from the premises; or
- (ii) it was not otherwise safe or practical for the person to—
 - (A) refuse the prohibited person entry to the premises; or
 - (B) exclude or remove the prohibited person from the premises.

212 Omission of s 173EC (Entering and remaining in licensed premises wearing or carrying a prohibited item)

Section 173EC—

omit.

213 Amendment of s 173ED (Removal of person wearing or carrying prohibited item from premises)

- (1) Section 173ED, heading, ‘person wearing or carrying prohibited item’—

omit, insert—

prohibited person

- (2) Section 173ED(1), ‘person who is wearing or carrying a prohibited item (the *prohibited person*)’—

omit, insert—

prohibited person

- (3) Section 173ED(1) and (3), penalty provision—

omit, insert—

Maximum penalty—100 penalty units.

[s 214]

214 Amendment of s 173EQ (Approval of persons to operate ID scanning systems)

Section 173EQ(5)—

omit, insert—

- (5) Without limiting the matters to which the commissioner may have regard in deciding whether an individual is a suitable person to operate an approved ID scanning system—
- (a) the commissioner must have regard to—
- (i) whether the individual has been convicted of a prescribed offence; and
- (ii) if the individual is, or has been, the subject of a control order or registered corresponding control order—the terms of the order; and
- (b) the commissioner may obtain a report from the police commissioner about the individual's criminal history, including whether the individual is, or has been, the subject of a control order or registered corresponding control order.

Examples of matters to which the commissioner may have regard—

- whether the applicant has the skill, knowledge and experience required for operating an approved ID scanning system
 - whether the applicant demonstrates the ability to comply with the applicant's statutory obligations relating to privacy
- (5A) However, the commissioner may not have regard to criminal intelligence in deciding whether an individual is a suitable person to operate an approved ID scanning system.
- (5B) A report under subsection (5)(b) must—

-
- (a) include reference to or disclosure of convictions of the individual mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6; and
 - (b) if the individual is, or has been, the subject of a control order or registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.

215 Omission of s 228B (Disqualification from holding licence, permit or approval—identified participants and criminal organisations)

Section 228B—

omit.

216 Insertion of new pt 12, div 18

Part 12—

insert—

Division 18 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

342 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the commissioner had not finally decided an application for the grant or renewal of an authority.
- (2) The commissioner must decide the application under this Act as in force after the commencement.

- (3) In this section—
- authority** means—
- (a) a licence; or
 - (b) a permit; or
 - (c) an approval for an approved manager; or
 - (d) an approval for a controller; or
 - (e) an approval mentioned in—
 - (i) section 153(1) or (3); or
 - (ii) section 173EQ(1); or
 - (f) an authority mentioned in section 131A(2).

343 Show cause process not finally decided

- (1) This section applies if—
- (a) the commissioner had given a show cause notice to a person; and
 - (b) immediately before the commencement, the commissioner had not finally dealt with the matters relating to the show cause notice (the **show cause process**).
- (2) The show cause process must continue under this Act as in force after the commencement.
- (3) In this section—
- show cause notice** means a written notice mentioned in section 134B(1), 137(1), 139C(2), 142ZB(1), 142ZS(2) or 173ER(3).

344 Proceedings not finally decided

- (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—

- (a) a proceeding before the tribunal for a review of a decision mentioned in repealed section 36(1);
 - (b) a proceeding before the Supreme Court about a decision mentioned in repealed section 36(1).
- (2) The proceeding is discontinued and the matter is remitted to the commissioner for the commissioner to decide again under this Act as in force after the commencement.
- (3) The tribunal or Supreme Court must return to the police commissioner any criminal intelligence relating to the proceeding in the tribunal's or Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
- (a) the tribunal or Supreme Court had not made a decision; or
 - (b) the tribunal or Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) the tribunal or Supreme Court had made a decision and an appeal against the decision had been started but not ended.
- (5) In this section—

criminal intelligence means criminal intelligence within the meaning of repealed section 37(5).

repealed, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

345 First regulation under s 173EAA(1) exempt from particular requirements

Section 173EAA(2) to (4) does not apply to the

[s 217]

making of the first regulation under section 173EAA(1).

Part 15 **Amendment of Liquor Regulation 2002**

217 **Regulation amended**

This part amends the *Liquor Regulation 2002*.

218 **Insertion of new pt 1C**

After section 3F—

insert—

Part 1C **Identified organisations**

3G **Entities declared to be identified organisations**

(1) For section 173EAA(1) of the Act, the following entities are declared to be identified organisations—

- the motorcycle club known as the Bandidos
- the motorcycle club known as the Black Uhlans
- the motorcycle club known as the Coffin Cheaters
- the motorcycle club known as the Comancheros
- the motorcycle club known as the Finks
- the motorcycle club known as the Fourth Reich
- the motorcycle club known as the Gladiators

- the motorcycle club known as the Gypsy Jokers
 - the motorcycle club known as the Hells Angels
 - the motorcycle club known as the Highway 61
 - the motorcycle club known as the Iron Horsemen
 - the motorcycle club known as the Life and Death
 - the motorcycle club known as the Lone Wolf
 - the motorcycle club known as the Mobshitters
 - the motorcycle club known as the Mongols
 - the motorcycle club known as the Muslim Brotherhood Movement
 - the motorcycle club known as the Nomads
 - the motorcycle club known as the Notorious
 - the motorcycle club known as the Odins Warriors
 - the motorcycle club known as the Outcasts
 - the motorcycle club known as the Outlaws
 - the motorcycle club known as the Phoenix
 - the motorcycle club known as the Rebels
 - the motorcycle club known as the Red Devils
 - the motorcycle club known as the Renegades
 - the motorcycle club known as the Scorpions
- (2) Despite the *Acts Interpretation Act 1954*, section

[s 219]

35, a reference to an entity in subsection (1) includes all state, national and international chapters of the entity.

Part 16 **Amendment of Motor Dealers and Chattel Auctioneers Act 2014**

219 Act amended

This part amends the *Motor Dealers and Chattel Auctioneers Act 2014*.

Note—

See also the amendments in schedule 1.

220 Amendment of s 19 (Particular persons can not make application)

Section 19(5), definition *disqualified person—*

omit, insert—

disqualified person means a person who is—

- (a) disqualified from holding a licence as a consequence of an order made by QCAT under section 199 or by a court under section 229; or
- (b) subject to a relevant control order.

221 Amendment of s 21 (Suitability of applicants and licensees—individuals)

Section 21(1)(e)—

omit, insert—

- (e) is subject to a relevant control order.

222 Amendment of s 22 (Suitability of applicants and licensees—corporations)

(1) Section 22(1)—

insert—

(d) is subject to a relevant control order.

(2) Section 22(2)(e)—

omit, insert—

(e) the executive officer is subject to a relevant control order.

223 Amendment of s 23 (Chief executive must consider suitability of applicants and licensees)

(1) Section 23(1)(h)(iv)—

omit, insert—

(iv) whether the individual is subject to a relevant control order; and

(2) Section 23(1)(i)(ii)—

omit, insert—

(ii) whether the corporation, or an executive officer of the corporation, is subject to a relevant control order; and

(3) Section 23—

insert—

(1A) However, the chief executive, when deciding whether a person is a suitable person to hold a licence, may not have regard to criminal intelligence given by the commissioner to the chief executive under section 230A.

(4) Section 23(3)—

omit.

(5) Section 23(1A) and (2)—

[s 224]

renumber as section 23(2) and (3).

224 Amendment of s 26 (Investigations about suitability of applicants, nominated persons and licensees)

Section 26—

insert—

- (6) If the person is, or has been, subject to a control order or registered corresponding control order, the report must—
 - (a) state the details of the order; or
 - (b) be accompanied by a copy of the order.

225 Amendment of s 27 (Notice of change in criminal history)

Section 27(3)—

omit, insert—

- (3) The notice must—
 - (a) state the following details—
 - (i) the person's name and any other name the commissioner believes the person may use or may have used;
 - (ii) the person's date and place of birth;
 - (iii) a brief description of the nature of the offence giving rise to the conviction or charge to which the change relates; and
 - (b) if the change includes the person becoming subject to a control order or registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.

226 Amendment of s 29 (Use of information obtained under s 26 or s 27)

Section 29(2)—

omit, insert—

- (2) Information about the following may be used only for making a decision about whether a relevant person is, or continues to be, a suitable person to hold a licence—
 - (a) a conviction of the relevant person or an associate of the relevant person;
 - (b) if the relevant person, or an associate of the relevant person, is subject to a control order or registered corresponding control order—the control order.

227 Omission of ss 30 and 31

Sections 30 and 31—

omit.

228 Amendment of s 36 (Chief executive may issue or refuse to issue licence)

Section 36(4)—

omit.

229 Amendment of s 44 (Chief executive may renew or refuse to renew licence)

Section 44(4)—

omit.

230 Amendment of s 48 (Chief executive may restore or refuse to restore licence)

- (1) Section 48(4)—

[s 231]

omit.

- (2) Section 48(5)—
renumber as section 48(4).

231 Amendment of s 53 (Chief executive may appoint or refuse to appoint substitute licensee)

Section 53(6)—
omit.

232 Amendment of s 58 (Return of licence for suspension or cancellation)

Section 58(2), ‘section 61(6), 62(2) or 63(5)’—
omit, insert—
section 61(6) or 62(2)

233 Amendment of s 62 (Immediate cancellation)

Section 62(1)—
insert—

- (d) 1 or more of the following persons becoming subject to a relevant control order—
- (i) the licensee;
 - (ii) if the licensee is a corporation—an executive officer of the corporation.

234 Omission of s 63 (Cancellation of motor dealer licence—identified participant)

Section 63—
omit.

235 Amendment of s 69 (Licensees to notify chief executive of changes in circumstances)

Section 69(1), before ‘written’—

insert—

oral or

236 Amendment of s 155 (Particular persons can not make application)

Section 155(3), definition *disqualified person*—

omit, insert—

disqualified person means a person who is—

- (a) disqualified from holding a registration certificate as a consequence of an order made by QCAT under section 199 or by a court under section 229; or
- (b) subject to a relevant control order.

237 Amendment of s 157 (Suitability of applicants)

Section 157(1)(d)—

omit, insert—

- (d) subject to a relevant control order.

238 Amendment of s 158 (Chief executive must consider suitability of applicants)

(1) Section 158(1)(i)—

omit, insert—

- (i) whether the person is subject to a relevant control order;

(2) Section 158—

insert—

[s 239]

(1A) However, the chief executive, when deciding whether a person is a suitable person to hold a registration certificate, may not have regard to criminal intelligence given by the commissioner to the chief executive under section 230A.

(3) Section 158(3)—

omit.

(4) Section 158(1A) and (2)—

renumber as section 158(2) and (3).

239 Amendment of s 159 (Investigations about suitability of applicants)

Section 159—

insert—

(6) If the person is, or has been, subject to a control order or registered corresponding control order, the report must—

- (a) state the details of the order; or
- (b) be accompanied by a copy of the order.

240 Amendment of s 160 (Notice of change in criminal history)

Section 160(3)—

omit, insert—

(3) The notice must—

- (a) state the following details—
 - (i) the person's name and any other name the commissioner believes the person may use or may have used;
 - (ii) the person's date and place of birth;

- (iii) a brief description of the nature of the offence giving rise to the conviction or charge to which the change relates; and
- (b) if the change includes the person becoming subject to a control order or registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.

241 Amendment of s 162 (Use of information obtained under s 159 or s 160)

Section 162(2)—

omit, insert—

- (2) Information about the following may be used only for making a decision about whether an applicant or motor salesperson is, or continues to be, a suitable person to hold a registration certificate—
 - (a) a conviction of the person;
 - (b) if the person is subject to a control order or registered corresponding control order—the control order.

242 Omission of ss 163 and 164

Sections 163 and 164—

omit.

243 Amendment of s 166 (Chief executive may issue or refuse to issue registration certificate)

Section 166(4)—

omit.

[s 244]

244 Amendment of s 169 (Chief executive may renew or refuse to renew registration certificate)

Section 169(4)—

omit.

245 Amendment of s 172 (Chief executive may restore or refuse to restore registration certificate)

(1) Section 172(4)—

omit.

(2) Section 172(5)—

renumber as section 172(4).

246 Amendment of s 178 (Return of registration certificate for suspension or cancellation)

Section 178(2), ‘section 180(5), 181(2) or 182(5)’—

omit, insert—

section 180(5) or 181(2)

247 Amendment of s 181 (Immediate cancellation)

(1) Section 181(1)—

omit, insert—

(1) A motor salesperson’s registration certificate is cancelled if the salesperson—

(a) is convicted of a serious offence; or

(b) becomes subject to a relevant control order.

(2) Section 181(2), ‘conviction’—

omit, insert—

happening of an event mentioned in subsection (1)

248 Omission of s 182 (Cancellation—identified participant)

Section 182—

omit.

249 Amendment of s 188 (Motor salespersons to notify chief executive of changes in circumstances)

Section 188(1), before ‘written’—

insert—

oral or

250 Omission of pt 7, div 2

Part 7, division 2—

omit.

251 Insertion of new ss 230A and 230B

Part 10—

insert—

230A Exchange of information

- (1) The chief executive may enter into an arrangement (an ***information-sharing arrangement***) with a relevant agency for the purposes of sharing or exchanging information—
 - (a) held by the chief executive or the relevant agency; or
 - (b) to which the chief executive or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
 - (a) the chief executive perform the chief executive’s functions under this Act; or

[s 251]

- (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
 - (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence, given to the chief executive by the commissioner under an information-sharing arrangement, only for monitoring compliance with this Act.
- (5) In this section—

information does not include information given to the chief executive or a relevant agency, or to which the chief executive or relevant agency has access, under the *Crime and Corruption Act 2001*.

relevant agency means the following—

 - (a) the commissioner;
 - (b) the chief executive of a department;
 - (c) a local government;
 - (d) a person prescribed by regulation.

230B Confidentiality

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act.
 - (2) The person must not make a record of the information or disclose the information to another person, other than under subsection (4).
- Maximum penalty—35 penalty units.

- (3) Without limiting subsection (1), a person gains confidential information through involvement in the administration of this Act if the person gains the information because of being, or an opportunity given by being—
 - (a) the chief executive; or
 - (b) a public service employee employed in the department; or
 - (c) a person engaged by the chief executive for this Act.
- (4) A person may make a record of confidential information or disclose it to another person—
 - (a) for this Act; or
 - (b) to discharge a function under another law; or
 - (c) for a proceeding in a court or QCAT; or
 - (d) if authorised by a court or QCAT in the interests of justice; or
 - (e) if required or permitted by law; or
 - (f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates.
- (5) The chief executive must destroy the following as soon as practicable after it is no longer needed for the purpose for which it was requested or given—
 - (a) a criminal history report about a person;
 - (b) a copy of a control order or registered corresponding control order accompanying a criminal history report about a person;
 - (c) a notice given under section 27(2) or 160(2) about a person.
- (6) The *Public Records Act 2002* does not apply to

[s 252]

the documents mentioned in subsection (5).

(7) In this section—

confidential information—

- (a) includes information about a person's affairs; but
- (b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

252 Insertion of new pt 11, div 1, hdg

Part 11, before section 237—

insert—

**Division 1 Transitional provisions for
repeal of PAMDA**

253 Insertion of new pt 11, div 2

Part 11—

insert—

**Division 2 Transitional provisions for
Serious and Organised
Crime Legislation
Amendment Act 2016**

238 Definitions for division

In this division—

repealed, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

239 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for—
 - (a) the issue, renewal or restoration of a licence or registration certificate; or
 - (b) the appointment, or the extension of the appointment, of an adult as the licensee's substitute licensee.
- (2) The chief executive must decide the application under this Act as in force after the commencement.

240 Proceedings not finally decided

- (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—
 - (a) a disciplinary proceeding under section 195 against a licensee or motor salesperson;
 - (b) a proceeding before QCAT for a review of a decision mentioned in repealed section 202(1);
 - (c) a proceeding before the Supreme Court about a decision mentioned in repealed section 202(1).
- (2) For a proceeding mentioned in subsection (1)(a), QCAT must decide the proceeding under this Act as in force after the commencement.
- (3) For a proceeding mentioned in subsection (1)(b) or (c)—
 - (a) the proceeding is discontinued; and
 - (b) the matter is remitted to the chief executive for the chief executive to decide again under

[s 253]

this Act as in force after the commencement.

- (4) QCAT or the Supreme Court must return to the commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (5) For subsection (1), a proceeding had not been finally dealt with if—
 - (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.
- (6) In this section—

criminal intelligence means criminal intelligence within the meaning of repealed section 202(6).

241 Reapplying for licences and registration certificates

- (1) Subsection (2) applies if, before the commencement, 1 of the following decisions was made only because of advice given by the commissioner to the chief executive under repealed section 30(3) or 163(2)—
 - (a) a decision to refuse to issue a licence;
 - (b) a decision to refuse to issue a registration certificate.
- (2) The decision is taken not to be a decision to refuse to issue the licence or registration certificate for section 19(3) or 155(2).
- (3) Subsection (4) applies if a licence held by a

corporation was, before the commencement, cancelled only because of advice given by the commissioner to the chief executive under repealed section 30(3).

- (4) Despite section 19(2), the corporation may make an application for a licence.

254 Amendment of sch 2 (Decisions subject to review)

- (1) Schedule 2, ‘section 23(2)’—

omit, insert—

section 23(3)

- (2) Schedule 2, entries for section 63(1) and section 182(1)—

omit.

- (3) Schedule 2, ‘section 158(2)’—

omit, insert—

section 158(3)

255 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *criminal organisation*, *identified participant* and *serious offence*—

omit.

- (2) Schedule 3—

insert—

control order see the *Penalties and Sentences Act 1992*, section 161N.

criminal intelligence see the Criminal Code, section 86(3).

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

relevant control order, in relation to a licence or

[s 255]

registration certificate, means a control order or registered corresponding control order that restricts the person to whom the order applies from carrying on a business, engaging in an occupation or performing an activity that requires the licence or registration certificate.

serious offence means—

- (a) any of the following offences punishable by 3 or more years imprisonment—
 - (i) an offence involving fraud or dishonesty;
 - (ii) an offence involving the trafficking of drugs;
 - (iii) an offence involving the use or threatened use of violence;
 - (iv) an offence of a sexual nature;
 - (v) extortion;
 - (vi) arson;
 - (vii) unlawful stalking; or
- (b) an offence against the Criminal Code, section 76; or
- (c) an offence mentioned in the Criminal Code, part 2, chapter 9A; or
- (d) an offence that is—
 - (i) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and
 - (ii) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q.

Part 17 **Amendment of Peace and Good Behaviour Act 1982**

256 **Act amended**

This part amends the *Peace and Good Behaviour Act 1982*.

257 **Insertion of new ss 3 and 3A**

Part 1—

insert—

3 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

3A Objects of Act

- (1) The main object of this Act is to protect the safety, welfare, security, and peace and good order of the community from risks presented by people engaging in antisocial, disorderly or criminal conduct.
- (2) Other objects of this Act are to—
 - (a) disrupt and restrict the activities of criminals; and
 - (b) deter criminals from establishing, maintaining or expanding a criminal network; and
 - (c) ensure premises in which criminals habitually gather are unable to be used for antisocial, disorderly or criminal conduct; and
 - (d) ensure premises habitually used by criminals, or connected with serious

[s 257]

- criminal activity, do not become excessively fortified; and
- (e) prevent intimidation of the public by criminals; and
 - (f) protect the community's enjoyment of safe and secure neighbourhood environments and public spaces.
- (3) The objects are achieved by—
- (a) giving jurisdiction to magistrates to make orders that—
 - (i) require a person to keep the peace and be of good behaviour; or
 - (ii) prevent a person, or group of persons, from doing particular things in relation to a particular area or event, or particular premises; or
 - (iii) prevent disorderly activities from taking place at particular premises; or
 - (iv) require the removal of excessive fortifications from particular premises; and
 - (b) giving power to commissioned officers to make orders, of a duration of no more than 7 days, to prevent a person, or group of persons, from doing particular things in relation to a particular area or event, or particular premises; and
 - (c) giving powers to the police service to ensure the effectiveness of the orders mentioned in paragraphs (a) and (b).
- (4) It is not the Parliament's intention that powers under this Act be exercised in a way that diminishes the freedom of persons in the State to participate in advocacy, protest, dissent or industrial action.

(5) In this section—

criminal means—

- (a) a recognised offender; or
- (b) an associate of a recognised offender; or
- (c) a participant in a criminal organisation; or
- (d) a person subject to a control order.

258 Replacement of pt 2, hdg (Orders to keep the peace and be of good behaviour)

Part 2, heading—

omit, insert—

**Part 2 Peace and good
 behaviour orders**

Division 1 Making of orders

259 Amendment of s 4 (Complaint in respect of breach of peace)

Section 4(2A) and (3), ‘Magistrates Court’—

omit, insert—

court

260 Amendment of s 6 (Magistrates Court may make order)

(1) Section 6(1), ‘Magistrates Court’—

omit, insert—

court

(2) Section 6(3) and (4), ‘the Court’—

omit, insert—

[s 261]

the court

261 Amendment of s 7 (Where defendant does not appear)

(1) Section 7(1), ‘Magistrates Court’—

omit, insert—

court

(2) Section 7, ‘the Court’—

omit, insert—

the court

(3) Section 7(1)(b), ‘section 6’—

omit, insert—

section 7

262 Amendment of s 8 (Application of Justices Act)

Section 8, ‘section 6’—

omit, insert—

section 7

263 Replacement of pt 3, hdg (Offence provisions)

Part 3, heading—

omit, insert—

Division 2 Offences

264 Amendment of s 10 (Offence for breach of order)

Section 10(1), ‘section 6’—

omit, insert—

section 7

265 Amendment of s 11 (Court may make further order)

- (1) Section 11, ‘section 10’—
omit, insert—
section 11
- (2) Section 11, ‘Magistrates Court’—
omit, insert—
court
- (3) Section 11, ‘the Court’—
omit, insert—
the court
- (4) Section 11, ‘section 6’—
omit, insert—
section 7

266 Renumbering of ss 3A–12

Sections 3A to 12—
renumber as sections 4 to 13.

267 Replacement of pt 4 (Miscellaneous provisions)

Part 4—
omit, insert—

Part 3 Public safety orders

Division 1 Preliminary

14 Definition for part

In this part—

[s 267]

respondent, to an application for a public safety order—

- (a) for division 2—see section 17(1) and (2); or
- (b) for division 3—see section 25(1) and (2).

15 Object of part

The object of this part is to provide for—

- (a) public safety orders, of a duration of no more than 7 days, to be made by a commissioned officer; and
- (b) public safety orders, of a duration of no more than 6 months, to be made by a court.

16 Peaceful Assembly Act 1992 unaffected

This part, or an order under this part, does not affect the *Peaceful Assembly Act 1992*.

Division 2 Making of orders by commissioned officers

17 Commissioned officer may make public safety order

- (1) A commissioned officer may make a public safety order for a person or a group of persons (the *respondent*) if the commissioned officer is satisfied—
 - (a) the presence of the respondent at premises or an event, or within an area, poses a serious risk to public safety or security; and
 - (b) it is more appropriate to make an order under this division than applying to the

-
- court for an order of longer duration under division 3; and
- (c) making the order is appropriate in the circumstances.
- (2) A reference in this division to a respondent, if the respondent is a group of persons, is a reference to the members generally of the group.
- (3) In considering whether or not to make the order, the commissioned officer must have regard to the following—
- (a) the respondent's criminal history and any previous behaviour of the respondent that posed a serious risk to public safety or security;
 - (b) the number of previous public safety orders made for the respondent;
 - (c) whether the respondent is or has been a participant in a criminal organisation or the subject of a control order;
 - (d) whether the respondent associates, or has associated with—
 - (i) a participant in a criminal organisation; or
 - (ii) a person subject to a control order; or
 - (iii) a recognised offender; or
 - (iv) an associate of a recognised offender;
 - (e) if advocacy, protest, dissent or industrial action is the likely reason for the respondent being present at the premises or event or within the area—the public interest in maintaining freedom to participate in those activities;
 - (f) whether the degree of risk involved justifies the imposition of the conditions to be stated

[s 267]

in the order, having regard, in particular, to any legitimate reason the respondent may have for being present at the premises or event or within the area;

- (g) the extent to which making the order will reduce the risk to public safety or security or effective traffic management;
- (h) the extent to which making the order will assist in achieving the objects of this Act.

18 Conditions

- (1) In making a public safety order for a respondent, the commissioned officer may impose a condition that prohibits the respondent from doing or attempting to do any of the following while the order is in force—
 - (a) entering or remaining at stated premises;
 - (b) attending or remaining at a stated event;
 - (c) entering or remaining in a stated area;
 - (d) doing a stated thing in a stated area.
- (2) A public safety order does not stop the respondent from entering the respondent's principal place of residence.

19 Particular orders must be authorised by court

- (1) Despite any other provision of this division, a commissioned officer must not do any of the following unless authorised by a court under this section—
 - (a) make a public safety order for the same respondent in relation to the same stated premises, stated event or stated area more than 3 times in a period of 6 months;

- (b) make a public safety order for a respondent that takes effect immediately after the end of a previous public safety order for the respondent;
 - (c) make a public safety order for a respondent of a duration of no more than 72 hours if a public safety order under this division has been made for the respondent within the immediately preceding 7 days.
- (2) A commissioned officer may apply to a court for an order (an ***authorisation order***) authorising the officer to make a public safety order of a type mentioned in subsection (1).
 - (3) An authorisation order may be made by the court on an application made without notice to any person.
 - (4) The grounds of an application for an authorisation order must be verified by affidavit.
 - (5) An application to the court for an authorisation order may be made and dealt with by a magistrate by telephone as follows—
 - (a) the commissioned officer must inform the magistrate—
 - (i) of the officer's name and rank; and
 - (ii) that the officer is a commissioned officer;
 - (b) the magistrate must be satisfied the case is of sufficient urgency to justify dealing with the application without requiring the personal attendance of the commissioned officer, by the oral questioning of the commissioned officer and any other available witnesses by telephone;
 - (c) if the magistrate is not satisfied it is appropriate to deal with the application

[s 267]

- without requiring the personal attendance of the commissioned officer—the magistrate may adjourn the hearing of the application to a time and place fixed by the magistrate;
- (d) if the magistrate is satisfied it is appropriate to deal with the application without requiring the personal attendance of the commissioned officer—the officer must inform the magistrate of the grounds on which the officer proposes to make the public safety order and the conditions the officer proposes to include in the order;
 - (e) if the magistrate is satisfied it is appropriate for the commissioned officer to make the public safety order, the magistrate—
 - (i) must inform the officer of the facts that justify, in the magistrate’s opinion, the making of the public safety order; and
 - (ii) must not proceed to make the authorisation order unless the officer undertakes to make an affidavit verifying those facts;
 - (f) if the commissioned officer gives an undertaking mentioned in paragraph (e), the magistrate may make the authorisation order, noting on the order the facts that justify, in the magistrate’s opinion, the making of the public safety order;
 - (g) the commissioned officer must, as soon as practicable after the making of the public safety order, give the magistrate an affidavit verifying the facts mentioned in paragraph (e).
- (6) For subsection (5)(a), the magistrate, on receiving the information mentioned in that paragraph, may assume, without further inquiry, that the commissioned officer is authorised to make an

application under this section.

20 Content of order

A public safety order made under this division must—

- (a) be in the approved form; and
- (b) state each of the following—
 - (i) the premises, event or area to which the order applies;
 - (ii) the person, or group of persons, to which the order applies;
 - (iii) each condition imposed under section 18;
 - (iv) if the order applies to stated premises or a stated area—the period, of not more than 7 days, for which the order remains in force;
 - (v) if the order applies to a stated event—
 - (A) the location of the event for the purposes of the order; and
 - (B) if the event is held over consecutive days—when the event starts and ends for the purposes of the order, provided the total duration of the event is no more than 7 days; and
 - (C) if the event is held over non-consecutive days—when the event starts and ends for the purposes of the order for each day of the event, provided the order is for no more than 7 days of the event;

[s 267]

- (vi) that a contravention of the order may constitute an offence that carries a maximum penalty of 300 penalty units or 3 years imprisonment;
- (vii) that a failure to comply with a direction given by a police officer under section 31 may constitute an offence that carries a maximum penalty of 40 penalty units;
- (viii) that the respondent may appeal to a Magistrates Court against the order if the order is of a duration of more than 72 hours;
- (ix) that a notice of appeal must be filed within 7 days after the order takes effect.

21 Service of order

- (1) If a public safety order is made by a commissioned officer, the commissioned officer must ensure a copy of the order is served by personal service on each person to whom the order relates.
- (2) If the commissioned officer reasonably suspects a person to whom the order applies is a person under 18 years or has impaired intellectual functioning, the commissioned officer must, if practicable, ensure the order is also served by personal service on a parent or guardian of the person.
- (3) A public safety order is not binding on a person to whom the order relates unless the order is served under this section.
- (4) If a public safety order is served on a person under this section, the order is binding on the person whether or not any other person to whom the

order relates has been served.

- (5) Failure to comply with subsection (2) does not prevent an order from becoming binding when the order is served on a person.
- (6) In this section—
parent see the *Youth Justice Act 1992*, schedule 4.

22 Urgent orders

- (1) This section applies if a commissioned officer is satisfied a public safety order made under this division should become binding on a person as a matter of urgency.
- (2) Despite section 21, a police officer may—
 - (a) communicate the contents of the order verbally to any person to whom the order relates; and
 - (b) advise the person to whom the contents of the order are communicated under paragraph (a)—
 - (i) of a place at which the person may obtain a written copy of the order on the next business day; and
 - (ii) that the order will be published on the QPS website on the next business day.
- (3) If practicable, a communication under subsection (2) must be electronically recorded.
- (4) The order is binding on a person immediately after a police officer has communicated the information mentioned in subsection (2) to the person.
- (5) The police officer must ensure a written copy of the order is—

[s 267]

- (a) available for collection by a person to whom the contents of the order are communicated under subsection (2)(a), at the place mentioned in subsection (2)(b), during ordinary business hours, on the next business day; and
 - (b) published on the QPS website on the next business day.
- (6) In this section—
- electronically recorded* means audio recorded or video recorded.

next business day means the next business day after the day on which the officer communicates the information mentioned in subsection (2) to the person.

23 Duration

- (1) A public safety order made by a commissioned officer takes effect—
 - (a) for an urgent order—under section 22(4);
 - (b) otherwise—when a police officer serves the order, under section 21, on the person to whom the order relates.
- (2) The public safety order remains in force until the earlier of the following—
 - (a) the day the order is revoked;

Note—

See the *Acts Interpretation Act 1954*, section 24AA for the power of the commissioned officer to revoke the order.

 - (b) if the order applies to a stated event and the event is cancelled—the day the event is cancelled;
 - (c) otherwise—the day stated in the order.

24 Records to be kept

- (1) The commissioner must record in writing particulars of each public safety order made by a commissioned officer, including, for example, the following—
 - (a) when and where the order was made;
 - (b) the reasons the order was made;
 - (c) the details of the respondent;
 - (d) the conditions of the order;
 - (e) the duration of the order;
 - (f) the name of the commissioned officer;
 - (g) whether the order was appealed against;
 - (h) if paragraph (g) applies—the outcome of the appeal.
- (2) The record must be made as soon as practicable after the public safety order is made.
- (3) The commissioner must keep in the records of the police service each record the commissioner has kept under this section.
- (4) The commissioner must ensure the public interest monitor has access to each record the commissioner has kept under this section for the purpose of performing the monitor's functions under the *Police Powers and Responsibilities Act 2000*, chapter 21, part 5.
- (5) In this section—

public interest monitor means the public interest monitor appointed under the *Police Powers and Responsibilities Act 2000*, section 740.

Division 3 Making of orders by court

25 Senior police officer may apply for public safety order

- (1) A senior police officer may apply to a court for, or for the extension of, a public safety order under this division for a person or a group of persons (the *respondent*).
- (2) A reference in this division to a respondent, if the respondent is a group of persons, is a reference to the members generally of the group.
- (3) The application must state the following—
 - (a) details sufficient to identify the respondent;
 - (b) the grounds on which the order, or extension, is sought, being grounds mentioned in section 27 to the extent they are relevant to the application;
 - (c) the information supporting the grounds;
 - (d) details of any previous application for a public safety order for the respondent and the outcome of the application;
 - (e) that the respondent may file a response to the application under section 26.
- (4) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (5) The application, with any accompanying affidavit, must—
 - (a) be filed; and
 - (b) on filing, state as the return date a day within 35 days after the filing; and
 - (c) after being filed, be served by a police officer on the respondent—
 - (i) by personal service within 7 business days after the filing; or

- (ii) if personal service is not practicable or the respondent is a group of persons, by public notice within 10 days after the filing.
- (6) An application for an extension of a public safety order may only be made within 2 months before the order ends.

26 Response by respondent

- (1) The respondent may file a response to the application.
- (2) The response must state—
 - (a) the facts relied on by the respondent in response to the application; and
 - (b) the nature of the response in relation to each order sought by the senior police officer.
- (3) The respondent must file the response, and serve it on the senior police officer, at least 5 business days before the return date.
- (4) The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application.

27 Court may make public safety order

- (1) The court may make, or extend, a public safety order for the respondent if the court is satisfied—
 - (a) the presence of the respondent at premises or an event, or within an area, poses a serious risk to public safety or security; and
 - (b) making or extending the order is appropriate in the circumstances.
- (2) In considering whether or not to make or extend the order, the court must have regard to the

following—

- (a) the respondent's criminal history and any previous behaviour of the respondent that posed a serious risk to public safety or security;
- (b) whether the respondent is or has been a participant in a criminal organisation or the subject of a control order;
- (c) whether the respondent associates, or has associated with—
 - (i) a participant in a criminal organisation; or
 - (ii) a person who is the subject of a control order; or
 - (iii) a recognised offender; or
 - (iv) an associate of a recognised offender;
- (d) if advocacy, protest, dissent or industrial action is the likely reason for the respondent being present at the premises or event or within the area—the public interest in maintaining freedom to participate in those activities;
- (e) whether the degree of risk involved justifies the imposition of the conditions to be stated in the order, having regard, in particular, to any legitimate reason the respondent may have for being present at the premises or event or within the area;
- (f) the extent to which making or extending the order will reduce the risk to public safety or security or effective traffic management;
- (g) the extent to which making or extending the order will assist in achieving the objects of this Act.

- (3) The court may also consider anything else the court considers relevant.
- (4) In deciding whether a respondent satisfies a matter under subsection (1) or (2) in the case of a respondent that is a group of persons, the court must consider the extent to which members of the group, as opposed to every member of the group, satisfy the matter.
- (5) The public safety order may be made or extended whether or not the respondent is present or makes submissions.

Note for subsection (5)—

See section 25(5)(c) for service requirements for an application to make or extend a public safety order.

28 Conditions

- (1) In making or extending a public safety order for a respondent, the court may impose the conditions on the respondent that the court considers necessary having regard to the grounds for making or extending the order.
- (2) Without limiting subsection (1), a condition may prohibit the respondent from doing or attempting to do any of the following while the order is in force—
 - (a) entering or remaining at stated premises;
 - (b) attending or remaining at a stated event;
 - (c) entering or remaining in a stated area;
 - (d) doing a stated thing in a stated area.
- (3) Also, it is a condition of the order that the respondent must comply with every reasonable direction given by a police officer for the purpose of the order.
- (4) Without limiting subsection (3), the condition

[s 267]

under the subsection must be stated in the order.

- (5) The court may impose a condition on the order about the use by a police officer of a power under section 31.
- (6) A public safety order does not stop the respondent from entering the respondent's principal place of residence.

29 Duration

- (1) A public safety order made by a court takes effect—
 - (a) when the order is made, if the respondent or a legal or other representative of the respondent is present at the hearing of the application; or
 - (b) if paragraph (a) does not apply—when a police officer serves the order on the respondent.
- (2) Service under subsection (1)(b) must be by personal service or, if personal service is not practicable or the respondent is a group of persons, by public notice.
- (3) The order served on the respondent must state that—
 - (a) the respondent may appeal to the District Court against the order; and
 - (b) the notice of appeal must be filed within 28 days after—
 - (i) the day on which the order was made; or
 - (ii) for an order made in the absence of the respondent or a legal or other representative of the respondent—the

day on which the order was served on the respondent.

- (4) A public safety order remains in force until the earlier of the following—
 - (a) the day the order is revoked;
 - (b) the day stated in the order, which must not be more than 6 months after the order is made.
- (5) However, if the public safety order is extended by the court, the order remains in force until the earlier of the following—
 - (a) the day the order is revoked;
 - (b) the day stated in the order for extension, which must not be more than 6 months after the day the order would have otherwise ended.

30 Revocation or variation

- (1) A court, at any time on application by a senior police officer, may make an order to vary or revoke a public safety order made by the court under this division.
- (2) An application must state—
 - (a) the grounds on which the variation or revocation is sought; and
 - (b) the information supporting the grounds on which the variation or revocation is sought.
- (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (4) A police officer must serve a copy of the application, with any accompanying affidavit, on the respondent.

[s 267]

- (5) A police officer must serve a copy of the order for the variation or revocation on the respondent as soon as practicable after the order is made.
- (6) Service of the application or order must be by personal service or, if personal service is not practicable or the respondent is a group of persons, by public notice.

Division 4 Police powers for enforcing public safety orders

Note—

See also the following provisions of the *Police Powers and Responsibilities Act 2000* relating to police powers—

- section 19 (General power to enter to make inquiries, investigations or serve documents)
- section 41(o)(i) (Prescribed circumstances for requiring name and address)
- section 60(3)(j)(i) (Stopping vehicles for prescribed purposes)

31 Prevention of contravention of public safety order

- (1) This section applies if a police officer reasonably suspects an offence against section 32 has been committed, is being committed, or is about to be committed in relation to a public safety order.
- (2) The police officer may exercise 1 or more of the following powers—
 - (a) stop a person or group of persons for whom the order has been made from entering a public safety place;

-
- (b) stop, detain and search a vehicle approaching, in or leaving a public safety place—
 - (i) to search for a person for whom the order has been made; or
 - (ii) to serve a copy of the order on a person for whom the order has been made;
 - (c) remove a person or group of persons for whom the order has been made from a public safety place;
 - (d) take any other steps the police officer reasonably considers necessary.
- (3) However, before exercising a power under subsection (2), a police officer must, if it is practicable to do so, first give the person against whom the power is to be exercised a direction—
- (a) for subsection (2)(a)—not to enter the public safety place; or
 - (b) for subsection (2)(c)—to leave the public safety place; or
 - (c) for subsection (2)(d)—to take the step the police officer reasonably considers necessary.
- (4) A police officer may give any direction that is reasonably necessary to exercise a power under subsection (2) or (3).
- (5) A direction given under this section is taken to be a direction given under the *Police Powers and Responsibilities Act 2000*.

Note—

Failure to comply with a direction given under this section is an offence against the *Police Powers and Responsibilities Act 2000*, section 791.

- (6) A person does not commit an offence against the *Police Powers and Responsibilities Act 2000*,

[s 267]

section 791 if—

- (a) the person was directed to do something under this section; and
 - (b) the court is not satisfied that the police officer, at the time of giving the direction, had the suspicion mentioned in subsection (1).
- (7) In this section—
- public safety place*** means—
- (a) premises or an area to which a public safety order applies; or
 - (b) a place where an event is taking place to which a public safety order applies.

Division 5 Offence

32 Contravention of public safety order

- (1) A person who, without reasonable excuse, knowingly contravenes a public safety order made for the person, or a group of persons of which the person is a member, commits a misdemeanour.

Maximum penalty—300 penalty units or 3 years imprisonment.

- (2) A person knowingly contravenes a public safety order if the person does an act or makes an omission the person knows, or ought reasonably to know, is a contravention of the public safety order.

Part 4 Restricted premises orders

Division 1 Preliminary

33 Definitions for part

In this part—

disorderly activity, at premises, means—

- (a) drunkenness, disorderly or indecent conduct, or entertainment of a demoralising character, at the premises; or
- (b) the unlawful supply of liquor or drugs from the premises; or
- (c) the unlawful possession at, or supply from, the premises of firearms or explosives; or
- (d) the presence of any of the following at the premises—
 - (i) recognised offenders;
 - (ii) associates of recognised offenders;
 - (iii) persons subject to a control order; or
- (e) the participation of any of the following in the control or management of the premises—
 - (i) recognised offenders;
 - (ii) associates of recognised offenders;
 - (iii) persons subject to a control order; or
- (f) the existence of fortification of the premises that is excessive for lawful use of that type of premises.

prescribed place means a place prescribed by regulation under section 41.

prohibited item means—

- (a) liquor; or

[s 267]

- (b) drugs; or
- (c) a firearm; or
- (d) an explosive; or
- (e) any drinking glass, vessel or container that is used or is capable of being used for or in connection with the storage, supply or consumption of liquor or drugs; or
- (f) any thing that is used or is capable of being used inside premises to contribute to or enhance the ambience of the premises in support of the sale or consumption of liquor or drugs, or entertainment of a demoralising character, at the premises; or

Examples of things used in support of the sale or consumption of liquor or drugs—

- a bar fitout
- a music, entertainment, gaming or lighting system
- a pool or billiard table or darts board
- a dance floor or stage

Examples of things used in support of entertainment of a demoralising character—

- a stripper's pole

- (g) fortification of premises that is excessive for lawful use of that type of premises.

respondent—

- (a) to an application for a restricted premises order—see section 35(1); or
- (b) to an application for an extension order—see section 44(1).

restricted premises means—

- (a) premises for which a restricted premises order is in force; or

- (b) a prescribed place taken to be restricted premises under division 3.

Division 2 Making of orders

34 Senior police officer may apply for restricted premises order

- (1) A senior police officer may apply to a court for a restricted premises order for stated premises, other than licensed premises.
- (2) The application must state the following—
 - (a) details sufficient to identify the premises;
 - (b) details sufficient to identify the owner and occupier of the premises;
 - (c) the grounds on which the order is sought, being grounds mentioned in section 36 to the extent they are relevant to the application;
 - (d) the information supporting the grounds;
 - (e) details of any previous application for a restricted premises order in relation to—
 - (i) the premises mentioned in paragraph (a); or
 - (ii) an owner or occupier mentioned in paragraph (b);
 - (f) that an owner or occupier of the premises may file a response to the application under section 35.
- (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (4) The application, with any accompanying

affidavit, must—

- (a) be filed; and
 - (b) on filing, state as the return date a day within 35 days after the filing; and
 - (c) after being filed, be served by a police officer on the respondent—
 - (i) by personal service within 7 business days after the filing; or
 - (ii) if personal service is not practicable or the respondent is a group of persons, by public notice within 10 days after the filing.
- (5) In this section—
licensed premises see the *Liquor Act 1992*, section 4.

35 Response by owner or occupier

- (1) An owner or occupier of premises for which a restricted premises order is sought (the *respondent*) may file a response to the application.
- (2) The response must state—
 - (a) the facts relied on by the respondent in response to the application; and
 - (b) the nature of the response in relation to each order sought by the senior police officer.
- (3) The respondent must file the response, and serve it on the senior police officer, at least 5 business days before the return date.
- (4) The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application.

36 Court may make restricted premises order

- (1) The court may make a restricted premises order for stated premises if the court is satisfied—
 - (a) a senior police officer reasonably suspects that 1 or more disorderly activities have taken place at the premises and are likely to take place again at the premises; and
 - (b) making the order is appropriate in the circumstances.
- (2) In considering whether or not to make the order, the court must have regard to the following—
 - (a) the extent to which the premises are open to the public, or used by the public, whether on payment or otherwise;
 - (b) the extent to which disorderly activities habitually take place at the premises;
 - (c) the extent to which making the order will reduce the risk to public safety caused by disorderly activities taking place at the premises;
 - (d) the extent to which making the order will assist in achieving the objects of this Act.
- (3) The court may also consider anything else the court considers relevant.
- (4) The restricted premises order may be made whether or not an owner or occupier of the premises is present or makes submissions.

Note for subsection (4)—

See section 34(4)(c) for service requirements for an application to make a restricted premises order.

37 Conditions

- (1) In making a restricted premises order, the court may impose the conditions on the respondent that

[s 267]

the court considers necessary having regard to the grounds for making the order.

- (2) Without limiting subsection (1), a condition must prohibit the following—
 - (a) disorderly activities taking place at the premises;
 - (b) any of the following being present at the premises—
 - (i) recognised offenders;
 - (ii) associates of recognised offenders;
 - (iii) persons subject to a control order;
 - (c) any of the following taking part in the management or control of the premises—
 - (i) recognised offenders;
 - (ii) associates of recognised offenders;
 - (iii) persons subject to a control order;
 - (d) the existence of any fortification of the premises that is excessive for lawful use of that type of premises.
- (3) A restricted premises order does not stop the respondent from entering the respondent's principal place of residence.

38 Duration

- (1) A restricted premises order takes effect—
 - (a) when the order is made, if an owner or occupier of the premises, or a legal or other representative of an owner or occupier of the premises is present at the hearing of the application; or

- (b) if paragraph (a) does not apply—when a police officer serves the order on an owner or occupier of the premises.
- (2) Service under subsection (1)(b) must be by personal service or, if personal service is not practicable, by public notice.
- (3) The order served on the owner or occupier must state that—
 - (a) the owner or occupier may appeal to the District Court against the order; and
 - (b) the notice of appeal must be filed within 28 days after—
 - (i) the day on which the order was made; or
 - (ii) for an order made in the absence of an owner or occupier or a legal or other representative of an owner or occupier—the day on which the order was served on the owner or occupier.
- (4) A restricted premises order remains in force until the earlier of the following—
 - (a) the order is revoked;
 - (b) the day stated in the order, which must be at least 6 months, and not more than 2 years, after the order is made.

39 Revocation or variation

- (1) A court, at any time on application by a senior police officer, may make an order to vary or revoke a restricted premises order.
- (2) An application must state—
 - (a) the grounds on which the variation or revocation is sought; and

[s 267]

- (b) the information supporting the grounds on which the variation or revocation is sought.
- (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (4) A police officer must serve a copy of the application, with any accompanying affidavit, on the respondent.
- (5) A police officer must serve a copy of the order for the variation or revocation on an owner or occupier of the premises as soon as practicable after the order is made.
- (6) Service of the application or order must be by personal service or, if personal service is not practicable, by public notice.

Division 3 Prescribed places

40 Definitions for division

In this division—

extended period see section 43(1).

extension order see section 43(1).

initial period see section 42(1).

41 Regulation-making power for prescribed places

- (1) A regulation may prescribe a place as a prescribed place for the purposes of this division.
- (2) A regulation made under subsection (1) after the commencement—
 - (a) may omit a place prescribed by regulation on commencement; and

- (b) must not prescribe a place that was not prescribed by regulation on commencement.

42 Prescribed place taken to be restricted premises for 2 years

- (1) A prescribed place is taken to be restricted premises for 2 years starting on the commencement (the *initial period*).
- (2) For section 54—
 - (a) the owner or occupier of the prescribed place is taken to have been served with a restricted premises order for the prescribed place, including the condition mentioned in section 37(2), on the commencement; and
 - (b) the restricted premises order mentioned in paragraph (a) is taken to remain in force for the initial period.
- (3) To remove any doubt, if a regulation made under section 41(1) after the commencement omits a place prescribed by regulation on commencement, the place stops being a prescribed place.

43 Extension of initial period

- (1) A senior police officer may apply to a court for an order (an *extension order*) that a prescribed place be taken to be restricted premises for a further stated period of at least 6 months and not more than 2 years (the *extended period*).
- (2) The application must be made at least 1 year after the commencement and at least 2 months before the end of the initial period or the immediately preceding extended period.
- (3) The application must state—

[s 267]

- (a) the grounds on which the extension order is sought; and
 - (b) the information supporting the grounds on which the extension order is sought.
- (4) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (5) The application, with any accompanying affidavit, must—
- (a) be filed; and
 - (b) on filing, state as the return date a day within 35 days after the filing; and
 - (c) after being filed, be served by a police officer on the respondent within 10 days after the filing.
- (6) Service under subsection (5)(c) must be by personal service or, if personal service is not practicable, by public notice.
- (7) To remove any doubt, it is declared that a senior police officer may make an application under subsection (1) from time to time as occasion requires.

44 Response by owner or occupier

- (1) An owner or occupier of premises for which an extension order is sought (the *respondent*) may file a response to the application.
- (2) The response must state—
 - (a) the facts relied on by the respondent in response to the application; and
 - (b) the nature of the response in relation to each order sought by the senior police officer.
- (3) The respondent must file the response, and serve

it on the senior police officer, at least 5 business days before the return date.

- (4) The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application.

45 Court may make extension order

- (1) The court must make an extension order for a prescribed place if the court is satisfied—
- (a) 1 or more disorderly activities have taken place at the premises, whether before or after the commencement; and
 - (b) if the court did not grant the order, 1 or more disorderly activities would be likely to take place again at the premises; and
 - (c) making the order is appropriate in the circumstances.
- (2) In considering whether or not to make the extension order, the court must have regard to the following—
- (a) the extent to which the premises are open to the public, or used by the public, whether on payment or otherwise;
 - (b) the extent to which disorderly activities habitually take place at the premises;
 - (c) the extent to which making the order will reduce the risk to public safety caused by disorderly activities taking place at the premises;
 - (d) the extent to which making the order will assist in achieving the objects of this Act.
- (3) The court may also consider anything else the court considers relevant.
- (4) The extension order may be made whether or not

[s 267]

an owner or occupier of the premises is present or makes submissions.

Note—

See section 43(5)(c) for service requirements for an application to make an extension order.

46 Effect of extension order

- (1) If a court makes an extension order for a prescribed place, the prescribed place is taken to continue to be restricted premises for the extended period.
- (2) For section 54—
 - (a) the owner or occupier of the prescribed place is taken to have been served with a restricted premises order for the prescribed place, including the condition mentioned in section 37(2), on the day on which the owner or occupier was served with the extension order; and
 - (b) the restricted premises order mentioned in paragraph (a) is taken to remain in force for the extended period.

47 Duration

- (1) An extension order takes effect—
 - (a) when the order is made, if an owner or occupier of the prescribed place, or a legal or other representative of an owner or occupier of the prescribed place is present at the hearing of the application; or
 - (b) if paragraph (a) does not apply—when a police officer serves the extension order on an owner or occupier of the prescribed place.

-
- (2) Service under subsection (1)(b) must be by personal service or, if personal service is not practicable, by public notice, within 28 days before the end of the initial period.
 - (3) The order served on the owner or occupier must state—
 - (a) that the owner or occupier may appeal to the District Court against the order; and
 - (b) the notice of appeal must be filed within 28 days after—
 - (i) the day on which the order was made; or
 - (ii) for an order made in the absence of an owner or occupier or a legal or other representative of an owner or occupier—the day on which the order was served on the owner or occupier.
 - (4) An extension order for a prescribed place remains in force until the earlier of the following—
 - (a) the day the order is revoked;
 - (b) the day stated in the order, which must be at least 6 months, and not more than 2 years after, the end of the initial period for the prescribed premises;
 - (c) the day the place stops being a prescribed place.

48 Revocation or variation

- (1) The court, at any time on application by a senior police officer, may make an order to vary or revoke an extension order for a prescribed place.
- (2) An application must state—
 - (a) the grounds on which the variation or revocation is sought; and

[s 267]

- (b) the information supporting the grounds on which the variation or revocation is sought.
- (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (4) A police officer must serve a copy of the application, with any accompanying affidavit, on an owner or occupier of the prescribed place.
- (5) A police officer must serve a copy of the order for the variation or revocation on an owner or occupier of the prescribed place as soon as practicable after the order is made.
- (6) Service of the application or order must be by personal service or, if personal service is not practicable, by public notice.

Division 4 Police powers for enforcing restricted premises orders

Note—

See also the following provisions of the *Police Powers and Responsibilities Act 2000* relating to police powers—

- section 19 (General power to enter to make inquiries, investigations or serve documents)
- section 41(o)(ii) (Prescribed circumstances for requiring name and address)
- section 60(3)(j)(ii) (Stopping vehicles for prescribed purposes)
- section 150(1)(e) (Search warrant application)

49 Searching restricted premises without warrant

- (1) It is lawful for a police officer to exercise the

following powers in relation to restricted premises without a search warrant—

- (a) power to enter the restricted premises and to stay on the restricted premises for the time reasonably necessary to exercise the powers mentioned in paragraphs (b) to (f);
 - (b) power to search the restricted premises for—
 - (i) a prohibited item; or
 - (ii) anything that may be evidence of the commission of an offence;
 - (c) power to seize from the restricted premises—
 - (i) a prohibited item; or
 - (ii) anything that may be evidence of the commission of an offence;
 - (d) power to open anything that is locked;
 - (e) power to search any person found at the premises for anything mentioned in paragraph (c) that can be concealed on the person;
 - (f) power to photograph any thing that may be evidence of disorderly activities taking place at the restricted premises.
- (2) To remove any doubt, it is declared that a power mentioned in subsection (1) may be exercised from time to time as occasion requires.

Division 5 Applications for return of prohibited items

50 Application to court by owner for return of prohibited item

- (1) This section applies if a police officer seizes a prohibited item from—
 - (a) restricted premises in the exercise of powers under section 49; or
 - (b) premises the subject of a search warrant applied for under the *Police Powers and Responsibilities Act 2000*, section 150(1)(e) in exercise of powers under section 157(1)(h) of that Act.
- (2) A person who claims to have a legal or equitable interest in the prohibited item may, within 21 days after its seizure, apply to a court for an order that the item be returned to—
 - (a) the person (the *applicant*); or
 - (b) someone else named in the application as the person to whom the item may be delivered (the *nominee*).
- (3) The applicant must give each of the following a copy of the application and notice of the day, time and place fixed for hearing the application—
 - (a) the commissioner;
 - (b) anyone else the person reasonably believes has a legal or equitable interest in the item.
- (4) In this section—

prohibited item does not include an item that is—

 - (a) evidence of the commission of an offence; or
 - (b) forfeited to the State under an Act.

51 Court may order return of prohibited item

- (1) The court may order that the prohibited item be

returned to the applicant or the nominee on the conditions, if any, the court considers appropriate if satisfied—

- (a) the applicant may lawfully possess the item; and
 - (b) for a prohibited item seized from restricted premises—the seizure was not lawful under section 49; and
 - (c) for a prohibited item seized from premises the subject of a search warrant applied for under the *Police Powers and Responsibilities Act 2000*, section 150(1)(e)—the disorderly activities forming the grounds on which the warrant was sought were not taking place at the premises; and
 - (d) it is appropriate that the item be returned to the applicant or nominee.
- (2) If the court proposes to order that the prohibited item be returned to the nominee, the court must also be satisfied that the nominee may lawfully possess the item.
- (3) The court must not order the return of a prohibited item to the applicant or the nominee if the court is satisfied the item—
- (a) may be evidence in a proceeding relating to the item; or
 - (b) is a thing used in or for manufacturing a dangerous drug; or
 - (c) may be subject to a confiscation proceeding.
- (4) In this section—

applicant see section 50(2)(a).

confiscation proceeding means a proceeding for an order under the *Criminal Proceeds*

Confiscation Act 2002.

nominee see section 50(2)(b).

Division 6 Forfeiture of prohibited items

52 Application of division

This division applies if—

- (a) a police officer seizes a prohibited item from—
 - (i) restricted premises in the exercise of powers under section 49; or
 - (ii) premises the subject of a search warrant applied for under the *Police Powers and Responsibilities Act 2000*, section 150(1)(e) in exercise of powers under section 157(1)(h) of that Act; and
- (b) either—
 - (i) an application under division 5 for the return of the prohibited item has not been made within 21 days after the item was seized; or
 - (ii) a magistrate has refused to return the prohibited item under section 51.

53 Forfeiture of prohibited item

- (1) The commissioner may forfeit the prohibited item to the State.
- (2) On the forfeiture, the prohibited item—
 - (a) becomes the property of the State; and

-
- (b) may, subject to any direction given under the *Police Service Administration Act 1990*, section 4.6, be dealt with by the commissioner as the commissioner considers appropriate.
- (3) Without limiting subsection (2), the commissioner may destroy or dispose of the prohibited item.
- (4) Subsections (5) and (6) apply if the commissioner proposes to sell the prohibited item.
- (5) The sale must be by auction.
- (6) The proceeds of the sale must be applied in the following order—
- (a) first, in meeting the expenses of the sale;
 - (b) second, in meeting any reasonable costs incurred in—
 - (i) seizing the prohibited item; and
 - (ii) storing the prohibited item; and
 - (iii) doing anything necessary to prepare the prohibited item for sale;
 - (c) third, to the consolidated fund.

Division 7 Offence

54 Offence by owner or occupier of restricted premises

- (1) An owner or occupier of restricted premises commits a misdemeanour if—
- (a) an owner or occupier has been served with a restricted premises order for the restricted premises; and

[s 267]

- (b) a disorderly activity takes place at the restricted premises after the order has been served and while the order remains in force; and
- (c) the owner or occupier knows, or ought reasonably to know, that the disorderly activity has taken place.

Maximum penalty—

- (a) for the first offence—150 penalty units or imprisonment for 18 months; or
 - (b) for each later offence—300 penalty units or 3 years imprisonment.
- (2) An owner or occupier of premises is not guilty of an offence against subsection (1) if the owner or occupier proves the owner or occupier has taken all reasonable steps to prevent the contravention.
- (3) An owner of premises is not guilty of an offence against subsection (1) if the owner proves the owner has taken all reasonable steps to evict the occupier from the premises.

Division 8 Evidentiary matters

55 Disorderly activity taken to have happened if obstruction or fortification

- (1) This section applies if—
- (a) a police officer exercises, or attempts to exercise—
 - (i) a function under section 49 in relation to restricted premises; or
 - (ii) a function under the *Police Powers and Responsibilities Act 2000*, section 157 in relation to premises; and

- (b) any of the following applies—
- (i) the police officer is assaulted or obstructed in the performance of the officer's function;
 - (ii) the performance of the police officer's function is hindered by excessive fortification of the premises.
- (2) This section also applies if a police officer has given a stop and desist notice to an owner or occupier of premises within 14 days before applying for a restricted premises order for the premises and the notice has not been complied with before the day of the hearing of the application.
- (3) In a relevant proceeding, evidence of any of the matters mentioned in subsection (1)(b) or (2) is evidence that a disorderly activity has taken place at the premises unless proven otherwise.
- (4) In this section—
- assault** has the meaning given by the Criminal Code, section 245.
- function** includes power.
- obstruct** includes hinder, resist and attempt to obstruct.
- relevant proceeding** means—
- (a) a proceeding against a person for a charge of having committed an offence against section 54; or
 - (b) an application under this part to a court; or
 - (c) an appeal relating to a proceeding mentioned in paragraph (a) or an application mentioned in paragraph (b).

Part 5 Fortification removal orders

Division 1 Preliminary

56 Definitions for part

In this part—

fortification, of premises, means any structure or device that, alone or as a system or part of a system, is designed to stop or hinder, or to provide any other form of step against, uninvited entry to the premises.

Example of a device that may be part of a system—

a video surveillance system, also called security camera surveillance

respondent, to an application for a fortification removal order, see section 59(1).

57 Relationship with Sustainable Planning Act 2009 and development approvals

- (1) This section applies for the carrying out of development as defined under the *Sustainable Planning Act 2009*—
 - (a) authorised under a fortification removal order; or
 - (b) that is enforcement action.
- (2) If, other than for this subsection, the development would be any of the following under the *Sustainable Planning Act 2009* it is taken to be exempt development under that Act—
 - (a) assessable development;

- (b) development requiring compliance assessment;
 - (c) prohibited development.
- (3) The development may be carried out despite any development approval under the *Sustainable Planning Act 2009*.

Division 2 Making of orders

58 Senior police officer may apply for fortification removal order

- (1) A senior police officer may apply to a court for a fortification removal order for stated premises.
- (2) The application must state the following—
 - (a) details sufficient to identify the premises and the fortification;
 - (b) details sufficient to identify the owner and occupier of the premises;
 - (c) the grounds on which the order is sought, being grounds mentioned in section 60 to the extent they are relevant to the application;
 - (d) the information supporting the grounds;
 - (e) details of any previous application for a fortification removal order in relation to—
 - (i) the premises mentioned in paragraph (a); or
 - (ii) an owner or occupier mentioned in paragraph (b);
 - (f) that an owner or occupier of the premises may file a response to the application under section 59.

[s 267]

- (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (4) The application, with any accompanying affidavit, must—
 - (a) be filed; and
 - (b) on filing, state as the return date a day within 35 days after the filing; and
 - (c) after being filed, be served by a police officer on the respondent—
 - (i) by personal service within 7 business days after the filing; or
 - (ii) if personal service is not practicable or the respondent is a group of persons, by public notice within 10 days after the filing.

59 Response by owner or occupier

- (1) An owner or occupier of premises for which a fortification removal order is sought (the *respondent*) may file a response to the application.
- (2) The response must state—
 - (a) the facts relied on by the respondent in response to the application; and
 - (b) the nature of the response in relation to each order sought by the applicant.
- (3) The respondent must file the response, and serve it on the applicant, at least 5 business days before the return date.
- (4) The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application.

60 Court may make fortification removal order

- (1) The court may make a fortification removal order for stated premises if the court is satisfied—
 - (a) the premises have a fortification; and
 - (b) the fortified premises are either—
 - (i) being, have been or are likely to be, used for or in connection with serious criminal activity, or to conceal evidence of, or to keep proceeds of, serious criminal activity; or
 - (ii) owned or habitually occupied or used by a criminal organisation, participants in a criminal organisation, recognised offenders, or associates of recognised offenders; and
 - (c) the extent or nature of the fortification is excessive for lawful use of that type of premises; and
 - (d) making the order is appropriate in the circumstances.
- (2) In considering whether or not to make the order, the court must have regard to the following—
 - (a) the extent to which the premises are open to the public, or used by the public, whether on payment or otherwise;
 - (b) the extent to which making the order will reduce the risk to public safety caused by habitual use of the premises by people mentioned in subsection (1)(b);
 - (c) the extent to which making the order will assist in achieving the objects of this Act.
- (3) The court may also consider anything else the court considers relevant.
- (4) The fortification removal order may be made

whether or not the respondent is present or makes submissions.

Note—

See section 58(4)(c) for service requirements for an application to make a fortification removal order.

- (5) The fortification removal order must state—
- (a) the premises and the fortification; and
 - (b) the time or the period within which the fortification must be removed or modified; and
 - (c) if the order requires the fortification to be modified—details of the modification.

61 Conditions

- (1) In making a fortification removal order for stated premises, the court may impose the conditions on the respondent that the court considers necessary having regard to the grounds for making the order.
- (2) Without limiting subsection (1), a condition may require the respondent to remove or modify the fortification the subject of the order within a stated period.

62 When order takes effect

- (1) A fortification removal order takes effect—
 - (a) when the order is made, if the respondent or a legal or other representative of the respondent is present at the hearing of the application; or
 - (b) if paragraph (a) does not apply—when a police officer serves the order on the respondent.
- (2) Service under subsection (1)(b) must be by

personal service or, if personal service is not practicable or the respondent is a group of persons, by public notice.

63 Revocation or variation

- (1) The court, at any time on application by a senior police officer, may make an order to vary or revoke a fortification removal order.
- (2) An application must state—
 - (a) the grounds on which the variation or revocation is sought; and
 - (b) the information supporting the grounds on which the variation or revocation is sought.
- (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
- (4) A police officer must serve a copy of the application, with any accompanying affidavit, on an owner or occupier of the premises.
- (5) A police officer must serve a copy of the order for the variation or revocation on an owner or occupier of the premises as soon as practicable after the order is made.
- (6) Service of the application or order must be by personal service or, if personal service is not practicable or the owner or occupier is a group of persons, by public notice.

Division 3 Police powers for enforcing fortification removal orders

Note—

See also the following provisions of the *Police Powers and Responsibilities Act 2000* relating to police powers—

- section 19 (General power to enter to make inquiries, investigations or serve documents)
- section 41(o)(iii) (Prescribed circumstances for requiring name and address)
- section 60(3)(j)(iii) (Stopping vehicles for prescribed purposes)

64 Application of division

This division applies if—

- (a) a fortification removal order has taken effect; and
- (b) the period within which to file an appeal about the order has ended and—
 - (i) no appeal about the order has been filed; or
 - (ii) any appeal about the order has been withdrawn or dismissed; and
- (c) the order has not been complied with.

65 Powers for removing and modifying fortifications

- (1) A police officer may cause the fortification the subject of the fortification removal order to be removed or modified to the extent required under the order (*enforcement action*).
- (2) A police officer may, for taking enforcement action, do all or any of the following—
 - (a) enter the fortified premises the subject of the order;

- (b) remain on the fortified premises for the time necessary to achieve the removal or modification;
 - (c) obtain expert or technical advice;
 - (d) take into or onto the fortified premises any persons, equipment and materials the police officer reasonably requires to take the action;
 - (e) require the occupier of the fortified premises, or a person at the premises, to give the police officer reasonable help to take the action or exercise the powers under paragraphs (a) to (d);
 - (f) remove any person from the fortified premises if it is necessary or desirable to do so to take the action.
- (3) A police officer may use force that is reasonably necessary to remove a person under subsection (2)(f).
- (4) The powers under this section—
- (a) may, subject to sections 66 and 67 and the terms of the order, be exercised at any time and as often as is required to achieve the removal or modification; and
 - (b) do not limit or otherwise affect any enforcement powers under the fortification removal order.

66 Procedure for entry to fortified premises

- (1) This section applies if—
- (a) a police officer is intending to enter fortified premises to take enforcement action; and

[s 267]

- (b) a person who is the respondent or an occupier of the fortified premises is present at the premises.
- (2) Before entering the fortified premises, the police officer must do, or make a reasonable attempt to do, the following—
 - (a) identify himself or herself to the person;
 - (b) tell the person—
 - (i) the purpose of the entry; and
 - (ii) that the police officer is permitted under this Act to enter the fortified premises without the person’s consent; and
 - (iii) about any ancillary powers the police officer thinks may need to be exercised to take the enforcement action;
 - (c) give the person an opportunity to allow the police officer to enter the fortified premises immediately without using force.
- (3) However, subsection (2) does not apply if the fortification makes it impracticable to tell the occupier anything.
- (4) In this section—

ancillary powers means—

 - (a) the powers under section 65(2)(c) to (f) as affected by the fortification removal order; and
 - (b) any powers under the fortification removal order.

67 Requirements for entry to buildings on fortified premises

- (1) A police officer or a person authorised by a police

officer may enter a building on the fortified premises only if the police officer reasonably believes the entry is needed to take the enforcement action.

- (2) Also, a person mentioned in subsection (1) may enter a part of the building where a person resides only if—
 - (a) the police officer reasonably believes the fortification consists of or includes that part; and
 - (b) entry to the part is needed to take the enforcement action.

68 Exemption from compliance with noise standards

- (1) Noise made or caused to be made during the taking of the enforcement action does not constitute an offence against the *Environmental Protection Act 1994*, section 440Q.
- (2) However, subsection (1) does not apply if the enforcement action is taken at a time prohibited under the fortification removal order.

Division 4 Forfeiture of fortifications

69 Application of division

This division applies if a police officer removes fortification from fortified premises in taking enforcement action.

70 Definitions for division

In this division—

net proceed see section 71(7).

[s 267]

responsible person, for a provision about a fortification removal order or the taking of enforcement action, means—

- (a) the respondent to the application for the order; or
- (b) any other person who—
 - (i) was the occupier of the fortified premises when the order was made; and
 - (ii) knew or ought reasonably to have known about the fortification being installed.

71 Forfeiture of removed fortification

- (1) The commissioner may forfeit the removed fortification to the State.
- (2) On the forfeiture, the removed fortification—
 - (a) becomes the property of the State; and
 - (b) may, subject to any direction given under the *Police Service Administration Act 1990*, section 4.6, be dealt with by the commissioner as the commissioner considers appropriate.
- (3) Without limiting subsection (2), the commissioner may destroy or dispose of the removed fortification.
- (4) Subsections (5) and (6) apply if the commissioner proposes to sell the removed fortification.
- (5) The sale must be by auction.
- (6) The proceeds of the sale must be applied in the following order—
 - (a) first, in meeting the expenses of the sale;

- (b) second, in meeting any reasonable costs incurred in—
 - (i) taking the enforcement action; and
 - (ii) storing the removed fortification; and
 - (iii) doing anything necessary to prepare the fortification for sale;
 - (c) third, to the consolidated fund.
- (7) An amount applied under subsection (6)(c) is a *net proceed* from the removed fortification.

72 Recovery of enforcement costs

- (1) The State may recover from a responsible person as a debt any reasonable costs incurred in taking the enforcement action.
- (2) Subsection (3) applies if—
 - (a) the fortification the subject of the enforcement action was removed in taking the action; and
 - (b) the removed fortification has been forfeited to the State under section 71.
- (3) Any net proceed from the fortification must be set off against the amount of the debt.

73 Compensation from State to particular owners

- (1) This section applies if—
 - (a) a fortification has been removed or modified under a fortification removal order or because of the taking of enforcement action; and
 - (b) the owner of the fortified premises is someone other than a responsible person.
- (2) The owner may claim compensation from the

[s 267]

State for any reasonable costs incurred for all or any of the following—

- (a) repairing any damage to the fortified premises because of the removal or modification;
 - (b) restoring the fortified premises to the condition the premises were in before the fortification was made.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.
- (4) A court may order compensation in a proceeding to be paid only if the court is satisfied it is just to make the order in the circumstances of the particular case.

74 Recovery of paid compensation from responsible person

- (1) This section applies if—
- (a) an owner mentioned in section 73 has made a claim against the State under that section; and
 - (b) the State has paid the owner an amount for the claim.
- (2) The State may recover the amount from any responsible person as a debt.
- (3) However, any net proceed from the relevant fortification that has not already been set off under section 72(3) must be set off against the amount.
- (4) For this section it does not matter—
- (a) whether the amount was paid because of a judgment in a proceeding for the claim or under a compromise of the claim; or

- (b) that the responsible person was not a party to the proceeding or compromise.

Division 5 Offence

75 **Hindering removal or modification of a fortification**

- (1) A person who does an act or makes an omission with intent to hinder any of the following commits a misdemeanour—
 - (a) the removal or modification of a fortification under a fortification removal order;
 - (b) the taking of enforcement action.

Maximum penalty—5 years imprisonment.

- (2) In this section—
 - fortification removal order* only includes a fortification removal order if—
 - (a) the order has taken effect; and
 - (b) the period within which to file an appeal about the order has ended and—
 - (i) no appeal about the order has been filed; or
 - (ii) any appeal about the order has been withdrawn or dismissed.

hinder includes prevent, obstruct, interfere with and delay.

Division 6 Evidentiary matters

76 Power to give stop and desist notice

- (1) A commissioned officer may give a notice (a *stop and desist notice*), in the approved form, to an owner or occupier of premises requiring the owner or occupier to stop and desist from installing stated fortification of the premises.
- (2) A commissioned officer may give a stop and desist notice only if the officer reasonably believes—
 - (a) steps are being taken to install excessive fortification of the premises; and
 - (b) the premises are either—
 - (i) being, have been or are likely to be, used for or in connection with serious criminal activity, or to conceal evidence of, or to keep proceeds of, serious criminal activity; or
 - (ii) owned or habitually occupied or used by a criminal organisation, participants in a criminal organisation, recognised offenders, or associates of recognised offenders.
- (3) The notice takes effect—
 - (a) when the notice is given by a police officer to an owner or occupier of the premises by personal service; or
 - (b) if service under paragraph (a) is not practicable—by leaving the notice at the premises in a conspicuous place.
- (4) The notice remains in force until the day that is 14 days after the day on which the notice is given to the owner or occupier under subsection (3).

77 Noncompliance with stop and desist notice taken to be evidence of fortification

- (1) This section applies if—
 - (a) a commissioned officer gives a stop and desist notice to an owner or occupier of premises within 14 days before applying for a fortification removal order for the premises; and
 - (b) the notice has not been complied with before the day of the hearing of the application.
- (2) In a proceeding relating to the application for the fortification removal order, evidence that the notice has not been complied with is evidence of the matters mentioned in section 60(1)(a) to (c) unless proven otherwise.

Part 6 Court proceedings

Division 1 Jurisdiction

78 Conferral of jurisdiction

A court has jurisdiction—

- (a) to hear and decide an application made to the court under this Act; and
- (b) to perform any other function or exercise any other power conferred on the court under this Act.

79 Constitution of Magistrates Court

A court exercising jurisdiction under this Act must be constituted by a magistrate.

Division 2 Proceedings for orders

80 General application of rules of court

The *Uniform Civil Procedure Rules 1999* apply in relation to applications made to a court under this Act to the extent the rules are consistent with this Act.

81 Standard of proof

A question of fact in proceedings under this Act, other than proceedings for an offence, is to be decided on the balance of probabilities.

82 Service by public notice

- (1) This section applies if service by a police officer of an application or order by public notice is required or authorised by a provision of this Act.
- (2) For service by public notice to be effective, the police officer must publish a notice—
 - (a) in a newspaper circulating throughout the State; and
 - (b) on the QPS website.
- (3) The notice under subsection (2) need only state the following—
 - (a) the general nature of the application or order;
 - (b) the respondent for the application or order;
 - (c) for an application—how copies of any affidavit or draft order to be used in the application may be obtained or read.

83 Service affidavit that must be filed

- (1) This section applies for a provision of this Act that requires service of an application or order by a police officer by personal service or public notice.
- (2) For personal service, the police officer must file, as soon as practicable, an affidavit of personal service made by the individual who personally served the application or order.
- (3) For service by public notice, the police officer must file, by the end of the next business day after publication, an affidavit stating the following—
 - (a) why the service was by public notice rather than personal service;
 - (b) if the service was by public notice because it was not practicable to personally serve the application or order, the reasons personal service was not practicable;
 - (c) the steps taken to publish the notice.
- (4) The affidavit mentioned in subsection (3) must be accompanied by a copy of the published notice.
- (5) As soon as practicable after the affidavit mentioned in subsection (3) is filed, a sealed copy of the affidavit and notice must be sent by registered post to the respondent to the application or order at the respondent's last known address.
- (6) However, if the respondent is a group of persons and the police officer is not aware of any address of the respondent—
 - (a) subsection (5) applies only if the police officer is aware of the address of an individual who the police officer believes to be an office holder of the group; and
 - (b) if subsection (5) applies under paragraph (a), the subsection applies as if a reference

to the respondent were a reference to the office holder.

Division 3 Proceedings for offences

84 Summary proceedings for offences

An offence against this Act not defined as a crime or misdemeanour is a summary offence.

85 Proceedings for indictable offence

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—
 - (a) by way of summary proceeding under the *Justices Act 1886*; or
 - (b) on indictment.
- (2) A magistrate must not hear an indictable offence summarily if—
 - (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
 - (b) the magistrate believes the charge should be prosecuted on indictment.
- (3) If subsection (2) applies—
 - (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
 - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
 - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the

proceeding for the committal of the person for trial or sentence; and

- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).

86 When summary proceeding may start

A proceeding for a summary offence against this Act must be started within—

- (a) 1 year after the offence is committed; or
- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

Division 4 Appeals

87 Definition for division

In this division—

appellate court means—

- (a) for an appeal against a public safety order made by a commissioned officer—a court; or
- (b) otherwise—the District Court.

88 Who may appeal

A person who is aggrieved by any of the following decisions may appeal against the decision—

- (a) a decision to make, or refuse to make, any of the following orders—

[s 267]

- (i) a public safety order, other than a public safety order of a duration of no more than 72 hours made by a commissioned officer;
- (ii) a restricted premises order;
- (iii) a fortification removal order;
- (b) a decision to extend, or refuse to extend, a public safety order under part 3, division 3;
- (c) a decision to vary, or refuse to vary, any of the following orders—
 - (i) a public safety order under part 3, division 3;
 - (ii) a restricted premises order;
 - (iii) a fortification removal order;
- (d) a decision to make, or refuse to make, an extension order under section 45;
- (e) a decision to refuse to make an order under section 51 for the return of a prohibited item.

89 How to start appeal

- (1) The appeal is started by filing a notice of appeal with the registrar of the appellate court.
- (2) The appellant must—
 - (a) serve a copy of the notice on the respondent to the appeal; and
 - (b) file a copy of the notice in the court that made the decision being appealed.
- (3) The notice of appeal must be filed within 28 days after—
 - (a) the day on which the decision was made; or

-
- (b) for a decision made in the absence of an appellant or a legal or other representative of the appellant—the day on which the order the subject of the decision was served on the appellant.
 - (4) The appellate court may at any time extend the period for filing the notice of appeal.
 - (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on.
 - (6) Despite subsections (1) to (4), if the decision being appealed is a decision of a commissioned officer to make a public safety order—
 - (a) subsection (2)(b) does not apply; and
 - (b) the notice of appeal must be filed within 7 days after the order takes effect; and
 - (c) the return date for the hearing of the appeal must be the day after the day the notice of appeal was filed; and
 - (d) subsection (4) does not apply.

90 Effect of particular orders not stayed by appeal

- (1) This section applies for the purpose of proceedings for an appeal in relation to an order made under part 3, 4 or 5.
- (2) The appeal does not affect—
 - (a) the operation of the order; or
 - (b) prevent the taking of action to implement the order.
- (3) However, the court may order the suspension of the operation of the order or stay any proceeding under the order if the court is satisfied it would be appropriate to do so, having regard to—

[s 267]

- (a) the likely impact of the suspension or stay on the protection of the safety, welfare, security, and peace and good order of the community from risks presented by people engaging in antisocial, disorderly or criminal conduct; and
- (b) any other relevant matter.

91 Hearing procedures

- (1) An appeal must be decided on the evidence and proceedings before the court that made the decision being appealed.
- (2) However, the appellate court may order that the appeal be heard afresh, in whole or part.

92 Powers of appellate court

- (1) In deciding an appeal against a decision, the appellate court may—
 - (a) confirm the decision; or
 - (b) vary the decision; or
 - (c) set aside the decision and substitute another decision; or
 - (d) set aside the decision and remit the matter to the court that made the decision.
- (2) The decision of the appellate court upon an appeal is final and conclusive.

Part 7 General

Division 1 General safeguards for things in possession of police service

93 Application of division

This division applies to—

- (a) a prohibited item seized by a police officer from restricted premises under section 49(1)(c)(i) (a *thing*); or
- (b) fortification removed by a police officer from fortified premises under section 65 (also a *thing*).

94 Receipt for seized or removed thing

- (1) The police officer must, as soon as practicable after seizing the thing—
 - (a) if the person from whom the thing is seized is present—give to the person a receipt for the thing; or
 - (b) if the occupier of the premises is not present—leave a receipt for the thing in a conspicuous place.
- (2) The receipt may be for a single thing or for all things seized from the person or the premises.
- (3) Also, the receipt must describe the thing seized and include any other information required under the responsibilities code.
- (4) This section does not apply if the police officer reasonably believes—
 - (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned; or

[s 267]

(c) the thing has no value other than as evidence of the commission of an offence.

(5) In this section—

responsibilities code see the *Police Powers and Responsibilities Act 2000*, schedule 6.

seize includes remove.

95 Responsibilities of police officer taking possession of thing

(1) The police officer must ensure the thing is given to an appropriate property officer or delivered to a property point that is appropriate in the circumstances, as soon as practicable, unless—

(a) the thing is earlier returned, destroyed or disposed of under this Act; or

(b) it is necessary to keep the thing for use during questioning or for an investigative procedure involving the thing.

(2) If the police officer keeps a thing under subsection (1)(b), the police officer must deliver the thing to an appropriate property officer or property point as soon as practicable after the reason for keeping the thing ends.

(3) Until the thing is delivered to the property officer or property point, the police officer is responsible for the safe keeping of the thing.

(4) In this section—

property officer see the *Police Powers and Responsibilities Act 2000*, schedule 6.

property point see the *Police Powers and Responsibilities Act 2000*, schedule 6.

Division 2 Miscellaneous

96 Delegation by commissioner

- (1) The commissioner may delegate a function of the commissioner under this Act to a police officer.
- (2) A delegation of a power of the commissioner under subsection (1) may permit the subdelegation of the power to a police officer.
- (3) In this section—
function includes power.

97 Protection from liability

- (1) A member of the police service does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member of the police service, the liability attaches instead to the State.
- (3) In this section—
member of the police service means a member of the police service under the *Police Service Administration Act 1990*.

98 Review of Act

- (1) This section applies if the Minister appoints, under the Criminal Code, section 736, a retired judge (the *reviewer*) to review the operation of the consorting provisions.
- (2) The Minister must also appoint the reviewer to—
 - (a) review the operation of this Act, other than part 2; and
 - (b) prepare, and give the Minister, a written report on the outcome of the review.
- (3) The terms of reference are to be decided by the

Minister.

- (4) Without limiting subsection (3), the terms of reference for the review must state the following matters—
- (a) the object of the review is for the reviewer to decide whether this Act, other than part 2, is meeting the objects of this Act;
 - (b) if the reviewer decides this Act, other than part 2, is not meeting the objects of this Act, the reviewer must recommend the amendments to the provisions the reviewer considers necessary to improve the effectiveness of the provisions in meeting the objects;
 - (c) in conducting the review, the reviewer must consider the information contained in the register of enforcement acts about the exercise of powers under this Act;
 - (d) in conducting the review, the reviewer must consider whether any demographic has been disproportionately or adversely affected by this Act, other than part 2.

Examples of a demographic—

Aboriginal people, Torres Strait Islanders, homeless people, drug dependent people

- (5) The reviewer has access to, and the commissioner may disclose to the reviewer, the information mentioned in subsection (4)(c) despite any other law.
- (6) The Minister must, within 14 sitting days after receiving the reviewer's report for the review, table a copy of the report in the Legislative Assembly.
- (7) In this section—

consorting provisions, see the Criminal Code,

section 736(5).

register of enforcement acts see the *Police Powers and Responsibilities Act 2000*, schedule 6.

99 Approved forms

- (1) A form may be approved for use under this Act.
- (2) The form may be approved by any of the following—
 - (a) the chief executive (magistrates court);
 - (b) the commissioner;
 - (c) the chief executive.
- (3) In this section—

chief executive (magistrates court) means the chief executive of the department in which the *Magistrates Courts Act 1921* is administered.

100 Regulation-making power

The Governor in Council may make regulations under this Act.

Schedule 1 Dictionary

section 3

appellate court, for part 6, division 4, see section 87.

associate, of a recognised offender, means a person to whom an official warning about the recognised offender has been given under the *Police Powers and Responsibilities Act 2000*,

section 53BAC.

at premises or a place, includes in or on the premises or place.

commissioned officer means any police officer of or above the rank of inspector.

commissioner means the commissioner of the police service.

control order—

- (a) means a control order under the *Penalties and Sentences Act 1992*, part 9D, division 3, subdivision 1; and
- (b) includes a registered corresponding control order under the *Penalties and Sentences Act 1992*.

court means a Magistrates Court.

criminal history, of a person, means—

- (a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act, including a conviction—
 - (i) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* had expired under that Act; and
 - (ii) that is not revived as prescribed by section 11 of that Act; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act.

criminal organisation see the *Penalties and Sentences Act 1992*, section 161O.

disorderly activity see section 33.

drugs means a controlled substance or a dangerous drug under the *Drugs Misuse Act 1986*.

enforcement action see section 65(1).

enter premises or a place, includes re-enter the premises or place.

evidence of the commission of an offence see the *Police Powers and Responsibilities Act 2000*, schedule 6.

explosive see the *Explosives Act 1999*, schedule 2.

extended period, for part 4, division 3, see section 43(1).

extension order, for part 4, division 3, see section 43(1).

firearm see the *Weapons Act 1990*, schedule 2.

fortification, of premises, see section 56.

fortification removal order means a fortification removal order made for premises under section 60.

fortified premises means premises for which a fortification removal order is in force.

initial period, for part 4, division 3, see section 42(1).

liquor see the *Liquor Act 1992*, section 4B.

net proceed, for part 5, division 4, see section 71(7).

occupier, of premises, includes a lessee or sublessee of the premises.

owner, of premises, includes a person who—

- (a) holds any legal or equitable estate or interest in the premises; or
- (b) is entitled to receive, or if the premises were leased, would be entitled to receive, the

[s 267]

rents and profits of an interest in the premises.

participant, in a criminal organisation, see the *Penalties and Sentences Act 1992*, section 161P.

personal service means service under the *Uniform Civil Procedure Rules 1999*, rule 106.

place see the *Police Powers and Responsibilities Act 2000*, schedule 6.

police service means the Queensland Police Service.

possession includes custody and control.

premises includes—

- (a) a building or structure, or part of a building or structure, of any type; and
- (b) a group of buildings or structures, or part of a group of buildings or structures, of any type; and
- (c) the land or water where a building or structure, or a group of buildings or structures, is situated; and
- (d) a vehicle and a caravan; and
- (e) a tent or cave; and
- (f) premises held under 2 or more titles or owners.

prescribed place see section 33.

prohibited item see section 33.

public notice, in relation to an application or an order under this Act, means public notice under section 82.

public safety order means a public safety order under section 17 or 27.

QPS website means the website used by the

commissioner to provide public access to information about matters relating to this Act.

recognised offender see the Criminal Code, section 77.

respondent—

- (a) for part 3, division 2—see section 17(1) and (2); or
- (b) for part 3, division 3—see section 25(1) and (2); or
- (c) for part 4, division 2—see section 35(1); or
- (d) for part 4, division 3—see section 44(1); or
- (e) for part 5—see section 59(1).

responsible person, for part 5, division 4, see section 70.

restricted premises, for part 4, see section 33.

restricted premises order means a restricted premises order under section 36.

search warrant see the *Police Powers and Responsibilities Act 2000*, section 150(1).

senior police officer means a police officer of or above the rank of sergeant.

serious criminal activity see the *Penalties and Sentences Act 1992*, section 161N.

stop and desist notice see section 76(1).

vehicle see the *Police Powers and Responsibilities Act 2000*, schedule 6.

- 15–17 Avian Street, Kunda Park
- unit 5/1 Chain Street, Mackay
- 4 Keats Street, Mackay
- 4 Ellen Street, Moorooka
- 31 Unwin Street, Moorooka
- 1 Zena Street, Mt Isa
- 54 Price Street, Nambour
- unit 5/144 Eumundi Noosa Road, Noosaville
- 2 Millchester Road, Queenton
- 26252 Peak Downs Highway, Racecourse
- 36 East Lane, Rockhampton
- 68 Kerema Street, Roseneath
- unit 2/8 Proprietary Drive, Tingalpa
- 391 Montague Road, West End
- shed 1A/13 Industrial Avenue, Yeppoon

Part 19 **Amendment of Penalties and Sentences Act 1992**

270 Act amended

This part amends the *Penalties and Sentences Act 1992*.

Note—

See also the amendments in schedule 1.

271 Amendment of s 3 (Purposes)

(1) Section 3—

insert—

[s 272]

(ba) encouraging particular offenders to cooperate with law enforcement agencies in proceedings or investigations about major criminal offences; and

- (2) Section 3(ba) to (i)—
renumber as section 3(c) to (j).

272 Amendment of s 4 (Definitions)

- (1) Section 4, definitions *court* and *prescribed offence*—
omit.
- (2) Section 4—
insert—

benefit, for part 9D, see section 161N.

commissioner, for part 9D, see section 161N.

control order, for part 9D, see section 161N.

corresponding control order, for part 9D, see section 161N.

court—

- (a) for part 2A—see section 15AA; or
(b) for part 9D, division 3, subdivision 5—see section 161ZV.

criminal organisation see section 161O.

honorary member, of an organisation, for part 9D, see section 161N.

major criminal offence see section 161S(5).

office holder, of an organisation, for part 9D, see section 161N.

participant, in a criminal organisation, see section 161P.

prescribed offence—

(a) for part 5, division 2, subdivision 2—see section 108A; or

(b) for part 9D—see section 161N.

prospective member, of an organisation, for part 9D, see section 161N.

registered corresponding control order, for part 9D, see section 161N.

registrar, for part 9D, division 3, subdivision 5, see section 161ZV.

respondent, for part 9D, division 3, subdivision 5, see section 161ZY(1)(b).

senior police officer, for part 9D, see section 161N.

serious criminal activity, for part 9D, see section 161N.

serious organised crime circumstance of aggravation see section 161Q.

(3) Section 4, definition *Crown prosecutor*, ‘, for parts 3A and 3B,’—

omit.

(4) Section 4, definition *prosecutor*, ‘3A and 3B’—

omit, insert—

3A, 3B and 9D

273 Amendment of s 9 (Sentencing guidelines)

(1) Section 9(2)—

insert—

(ga) without limiting paragraph (g), whether the offender was a participant in a criminal organisation—

160B(2) or (5)

276 Amendment of s 160A (Application of ss 160B–160D)

(1) Section 160A(4), examples, second dot point—

omit.

(2) Section 160A(5)(a), from ‘181(2)’—

omit, insert—

181(2), (2A) or (2B), 181A, 182(2) or (2A),
182A(3) or (3A), 183(2) or (2B) or 185B (each a
relevant provision); and

277 Insertion of new s 160AA

After section 160A—

insert—

**160AA Reduction of minimum period of
imprisonment for particular offenders**

(1) This section applies if—

(a) a court is imposing a term of imprisonment
on an offender for a prescribed offence
committed with a serious organised crime
circumstance of aggravation; and

(b) either—

(i) the term of imprisonment imposed is
imprisonment for life; or

(ii) the offender is serving a term of
imprisonment for life; and

(c) section 13A or 13B applies for the sentence.

Note—

See section 161S in relation to the application of
sections 13A and 13B for the sentencing of an
offender mentioned in paragraph (a).

[s 278]

- (2) The court may fix a date under section 160C or 160D that—
 - (a) reduces the minimum period of imprisonment the offender must otherwise serve under the *Corrective Services Act 2006*, section 181(2A) or (2B) or 181A(3) or (4); but
 - (b) does not reduce the minimum period of imprisonment the offender must serve under section 181(2) or 181A(2) of that Act.
- (3) Also, no date fixed by the court as mentioned in subsection (2) can reduce the minimum period of imprisonment the offender must serve under the *Corrective Services Act 2006*, section 181(2) or 181A(2).
- (4) This section applies despite section 160A(5).
- (5) In this section—
prescribed offence see section 161N.

278 Amendment of s 160B (Sentence of 3 years or less and not a serious violent offence or sexual offence)

Section 160B—

insert—

- (5) Despite subsections (2) and (3), the court must fix the date the offender is eligible for parole under subsection (6) if—
 - (a) the offender is sentenced to a term of imprisonment under section 161R(2); and
 - (b) in imposing the base component of the sentence under that section, the court would, apart from this subsection, be required to fix a date for the offender under subsection (2) or (3).

[s 279]

whether or not it has any inherent or tangible value, purpose or attribute.

commissioner means the commissioner of the police service.

control order means an order made under division 3, subdivision 1.

corresponding control order means an order prescribed to be a corresponding control order under section 161ZW.

criminal organisation see section 161O.

honorary member, of an organisation, includes a person who is a member of the organisation, but has not paid a fee to be a member of the organisation.

office holder, of an organisation, means—

- (a) a person who is a president, vice-president, treasurer, secretary, director or another office holder or a shareholder of the organisation; or
- (b) a person who (whether by words or conduct, or in any other way) asserts, declares or advertises that the person holds a position of authority of any kind within the organisation; or
- (c) a person who is in control of all or a substantial part of the activities of the organisation; or
- (d) if the organisation appoints a person to be in charge of an activity of the organisation or keep order at a meeting or gathering of the organisation—the person appointed.

Examples—

- a person appointed to administer a child exploitation material website

- a person appointed to supervise the call centre of a cold-call investment fraud operation
- a person appointed as the sergeant-at-arms of a motorcycle club

participant, in a criminal organisation, see section 161P.

prescribed offence means an offence against a provision mentioned in schedule 1C.

prospective member, of an organisation, means a person who has started, but not completed, the process of becoming a member of the organisation.

registered corresponding control order means a corresponding control order that is registered under division 3, subdivision 5.

senior police officer means a police officer of or above the rank of sergeant.

serious criminal activity means conduct constituting an indictable offence for which the maximum penalty is at least 7 years imprisonment.

serious organised crime circumstance of aggravation see section 161Q.

161O Meaning of *criminal organisation*

- (1) A ***criminal organisation*** is a group of 3 or more persons, whether arranged formally or informally—
 - (a) who engage in, or have as their purpose (or 1 of their purposes) engaging in, serious criminal activity; and
 - (b) who, by their association, represent an unacceptable risk to the safety, welfare or order of the community.

[s 279]

- (2) For subsection (1), it does not matter whether—
- (a) the group of persons—
 - (i) has a name; or
 - (ii) is capable of being recognised by the public as a group; or
 - (iii) has an ongoing existence as a group beyond the serious criminal activity in which the group engages or has as a purpose; or
 - (iv) has a legal personality; or
 - (b) the persons comprising the group—
 - (i) have different roles in relation to the serious criminal activity; or

Example—

Of the persons comprising a methylamphetamine syndicate, different persons are responsible for supplying the cold and flu tablets, extracting the pseudoephedrine from the tablets, supplying other necessary ingredients, and cooking the ingredients to produce methylamphetamine.

- (ii) have different interests in, or obtain different benefits from, the serious criminal activity; or

Example—

Of the 3 persons comprising a group that engages in serious criminal activity, 1 person obtains the profit from the activity and pays the other 2 persons an amount for engaging in the activity.

- (iii) change from time to time.

Example—

a networked online child exploitation forum

- (3) In this section—

engage, in serious criminal activity, includes each

of the following—

- (a) organise, plan, facilitate, support, or otherwise conspire to engage in, serious criminal activity;
- (b) obtain a material benefit, directly or indirectly, from serious criminal activity.

161P Meaning of *participant*

- (1) A person is a *participant*, in a criminal organisation, if—
 - (a) the person has been accepted as a member of the organisation and has not ceased to be a member of the organisation; or
 - (b) the person is an honorary member of the organisation; or
 - (c) the person is a prospective member of the organisation; or
 - (d) the person is an office holder of the organisation; or
 - (e) the person identifies himself or herself in any way as belonging to the organisation; or

Examples—

- using a theme-based naming convention or icon to establish a screen name or profile for an online child exploitation forum
 - wearing or displaying the patches or insignia, or a version of the patches or insignia, of a criminal organisation
- (f) the person's conduct in relation to the organisation would reasonably lead someone else to consider the person to be a participant in the organisation.

[s 279]

Example of conduct for paragraph (f)—

doing any of the following for a criminal organisation involved in the production and sale of cannabis—

- tending the cannabis plants
- packaging the cannabis for sale
- selling the cannabis
- laundering the profits from the sale of the cannabis
- managing the day-to-day business of the organisation

- (2) For subsection (1)(a), a person may be accepted as a member of a criminal organisation—
- (a) informally; or
- (b) through a process set by the organisation, including, for example, by paying a fee or levy.

161Q Meaning of *serious organised crime circumstance of aggravation*

- (1) It is a circumstance of aggravation (a *serious organised crime circumstance of aggravation*) for a prescribed offence of which an offender is convicted that, at the time the offence was committed, or at any time during the course of the commission of the offence, the offender—
- (a) was a participant in a criminal organisation; and
- (b) knew, or ought reasonably to have known, the offence was being committed—
- (i) at the direction of a criminal organisation or a participant in a criminal organisation; or
- (ii) in association with 1 or more persons who were, at the time the offence was

committed, or at any time during the course of the commission of the offence, participants in a criminal organisation; or

(iii) for the benefit of a criminal organisation.

- (2) For subsection (1)(b), an offence is committed for the benefit of a criminal organisation if the organisation obtains a benefit, directly or indirectly, from the commission of the offence.
- (3) To remove any doubt, it is declared that a criminal organisation mentioned in subsection (1)(b) need not be the criminal organisation in which the offender was a participant.

Division 2 Term of imprisonment for particular offenders

161R Court must impose term of imprisonment

- (1) This section applies to the sentencing of an offender convicted of a prescribed offence committed with a serious organised crime circumstance of aggravation.
- (2) The court must impose on the offender a term of imprisonment consisting of the following components—
- (a) a sentence of imprisonment for the prescribed offence imposed under the law apart from this part and without regard to the following (the *base component*)—
- (i) the sentence that must be imposed on the offender under paragraph (b);
- (ii) the control order that must be made for the offender under section 161V;

[s 279]

- (b) (other than if a sentence of life imprisonment is imposed as the base component or the offender is already serving a term of life imprisonment) a sentence of imprisonment (the ***mandatory component***) for the lesser of the following periods—
- (i) 7 years;
 - (ii) the period of imprisonment provided for under the maximum penalty for the prescribed offence.

Note—

See the *Corrective Services Act 2006*, sections 181(2A) and (2B) and 181A(3) and (4) in relation to the parole eligibility date of an offender whose sentence under this subsection does not include a mandatory component.

- (3) The mandatory component—
- (a) must be ordered to be served cumulatively with the base component; and
 - (b) despite any other provision of this Act under which another sentence may be ordered, must be ordered to be served wholly in a corrective services facility; and
 - (c) must not be mitigated or reduced under this Act or another Act or any law.
- (4) Also, if the offender is serving, or has been sentenced to serve, imprisonment for another offence, the mandatory component must be ordered to be served cumulatively with the imprisonment for the other offence.
- (5) Despite subsection (3)(a), if the base component does not require the offender to immediately serve a sentence of imprisonment in a corrective services facility—

- (a) the offender is to immediately begin to serve the mandatory component; and
 - (b) the base component is to have effect, so far as practicable, at the end of the mandatory component.
- (6) If the court is sentencing the offender for more than 1 prescribed offence committed with a serious organised crime circumstance of aggravation, the court must impose the mandatory component for only 1 of the offences.
- (7) When deciding which prescribed offence to use for imposing the mandatory component, the court must choose the offence that will result in the offender serving the longest period of imprisonment available under this Act or another Act for the offences.

161S Cooperation with law enforcement agencies

- (1) Subject to subsections (2) and (3), sections 13A and 13B apply for the sentencing of an offender who is convicted of a prescribed offence committed with a serious organised crime circumstance of aggravation.
- (2) For section 13A, an offender mentioned in subsection (1) is taken to have undertaken to cooperate with law enforcement agencies in a proceeding about an offence, including a confiscation proceeding, only if—
- (a) the offender has undertaken to cooperate with law enforcement agencies in a proceeding about a major criminal offence; and
 - (b) the court is satisfied the cooperation will be of significant use in a proceeding about a major criminal offence.

[s 279]

- (3) For section 13B, an offender mentioned in subsection (1) is taken to have significantly cooperated with a law enforcement agency in its investigations about an offence or a confiscation proceeding only if—
- (a) the offender has significantly cooperated with a law enforcement agency in its investigations about a major criminal offence; and
 - (b) the court is satisfied the cooperation has been, is or will be of significant use to the law enforcement agency or another law enforcement agency in its investigations about a major criminal offence.
- (4) This section applies despite section 161R(3) or (4).
- (5) In this section—
- major criminal offence* means an indictable offence for which the maximum penalty is at least 5 years imprisonment.

Division 3 Control orders

Subdivision 1 Making of orders

161T Court may make control order whether or not conviction recorded or other order made

A court may make a control order under this subdivision for an offender whether or not it records a conviction or makes another order for the offender under this Act or another Act.

161U Conditions

- (1) A control order for an offender may impose—
- (a) the conditions the court considers appropriate to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity; and
 - (b) the conditions the court considers necessary to enforce the order.

Example—

a condition requiring the offender to advise a law enforcement officer if the offender changes address

- (2) Without limiting subsection (1)(a), a condition may—
- (a) prohibit the offender from—
 - (i) associating with a stated person or a person of a stated class, including a person with whom the offender has a personal relationship; or
 - (ii) entering or being in the vicinity of a stated place or a place of a stated class; or
 - (iii) acquiring or possessing a stated thing or a thing of a stated class; or
 - (b) restrict the means by which the offender communicates with other persons; or
 - (c) require the offender—
 - (i) to give a police officer or another stated person stated information by a stated time or at stated intervals; or

Example of stated information—

the offender's computer passwords

[s 279]

- (ii) to attend before a police officer or another stated person by a stated time or at stated intervals.

Example—

attending before the officer in charge of a stated police station at weekly intervals

- (3) The control order must require the offender, within 24 hours after the order takes effect, to deliver to the commissioner's custody at a stated police station anything the offender is prohibited from possessing under the order unless the offender has lawfully disposed of possession of the thing before the end of that period.
- (4) Also, if the control order requires the person to give stated information, the order must require the information to be given in writing.
- (5) Before imposing a condition mentioned in subsection (2)(a)(i) prohibiting the offender from associating with another person with whom the offender has a personal relationship, the court must consider the effect of the condition on the relationship and whether the prohibition should relate only to a particular class of activity or relate to activities generally.
- (6) If the control order is made for the offender under section 161X, the order may not impose a condition other than a condition mentioned in subsection (1)(b) or (2)(a)(i) or (ii) or (b).
- (7) The control order may not require the offender to—
 - (a) give information if giving the information—
 - (i) would disclose information that is the subject of legal professional privilege; or
 - (ii) would be a contravention of another Act; or

-
- (b) if the offender is an individual—give information relating to an offence with which the offender is charged.

Note—

See section 161ZH for restrictions on the admissibility in a proceeding of information given under a control order.

- (8) Subsections (6) and (7) apply despite subsection (1).
- (9) In this section—
information includes a document.

161V When court must make order

- (1) A court sentencing an offender for a prescribed offence committed with a serious organised crime circumstance of aggravation must make a control order for the offender.
- (2) However, if section 13A or 13B applies for the sentencing of the offender, the court may, but need not, make a control order for the offender.

Note—

See section 161S in relation to the application of sections 13A and 13B to the sentencing of an offender mentioned in subsection (1).

161W When court may make order—offender who was participant in criminal organisation

- (1) A court sentencing an offender for an indictable offence may make a control order for the offender if—
- (a) section 161R does not apply to the sentencing of the offender; and
- (b) the court is satisfied the offender was, at the time the offence was committed, or at any

[s 279]

time during the course of the commission of the offence, a participant in a criminal organisation; and

- (c) the court considers that making the order is reasonably necessary to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity.

Notes—

- 1 See section 15 in relation to the information and sentencing submissions the court may receive for sentencing the offender.
 - 2 See also the *Evidence Act 1977*, section 132C.
- (2) For subsection (1)(b), the offender's participation in a criminal organisation need not be related to the indictable offence for which the offender is being sentenced.
- (3) A control order may be made under subsection (1) on the court's own initiative or on an application by the prosecutor.
- (4) If the prosecutor intends to make an application under subsection (3), the prosecutor must inform the court as soon as practicable after the offender has been convicted of the indictable offence.
- (5) This section applies whether the offender is convicted of the indictable offence summarily or on indictment.

161X When court may make order—offender convicted of habitual consorting

- (1) A court sentencing an offender for an offence against the Criminal Code, section 77B may make a control order for the offender if—
- (a) section 161R does not apply to the sentencing of the offender; and

- (b) the court considers that making the order is reasonably necessary to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity.
- (2) A control order may be made under subsection (1) on the court's own initiative or on an application by the prosecutor.

161Y When court may make order—offender convicted of contravening order

- (1) A court sentencing an offender for an offence against section 161ZI may make a control order for the offender if the court considers that making the order is reasonably necessary to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity.
- (2) A control order may be made under subsection (1) on the court's own initiative or on application by the prosecutor.

161Z Control order to be explained

- (1) Before making a control order for an offender, the court must explain, or cause to be explained, to the offender—
 - (a) the purpose and effect of the order; and
 - (b) what may follow if the offender contravenes the order; and
 - (c) that the order may be amended or revoked on the application of the offender, a Crown prosecutor, a senior police officer or an authorised corrective services officer.
- (2) The explanation must be made in language or in a way likely to be readily understood by the

offender.

161ZA Offender subject to existing control order

- (1) This section applies if—
 - (a) the court must, or may, make a control order for an offender under this subdivision; and
 - (b) the offender is subject to a control order (an *existing control order*).
- (2) In making a further control order for the offender as mentioned in subsection (1)(a), the court must have regard to the conditions imposed on the offender under the existing control order.

161ZB Duration

- (1) A control order for an offender must state the day the order takes effect.
- (2) The stated day must be—
 - (a) if the sentence imposed on the offender when the control order is made requires the offender to immediately serve a term of imprisonment in a corrective services facility, or the offender is already in custody in a corrective services facility for another offence—the day the offender is released from custody; or
 - (b) otherwise—the day the control order is made.
- (3) Unless it is sooner revoked under subdivision 2, a control order remains in force until the day stated in the order, which must not be more than—
 - (a) for an order made under section 161X—2 years after the order takes effect; or

- (b) otherwise—5 years after the order takes effect.
- (4) However, the period applying for a control order under subsection (3)(a) or (b) is extended by, and the order remains in force for, the following periods—
 - (a) any period for which the order is suspended under section 161ZC;
 - (b) any period by which the order is extended under section 161ZI(5)(a).
- (5) For subsection (2)(a), an offender is in custody in a corrective services facility if the offender—
 - (a) is serving imprisonment in the facility; or
 - (b) is detained on remand in the facility.

161ZC Effect if offender is detained on remand or imprisoned

- (1) This section applies if, while a control order is in force for an offender, the offender is detained in custody on remand or is serving a term of imprisonment.
- (2) The control order is suspended for the period the offender is detained or imprisoned.

Subdivision 2 Amendment and revocation of orders

161ZD Application for amendment or revocation

- (1) The following persons may apply, in the approved form, for the amendment or revocation of a control order—
 - (a) a Crown prosecutor;

[s 279]

- (b) a senior police officer;
 - (c) an authorised corrective services officer;
 - (d) the person subject to the order.
- (2) The application may be made to—
- (a) a court of equivalent jurisdiction to the court that made the control order; or
 - (b) a court of higher jurisdiction, if the person subject to the control order is before the court.
- (3) An application under subsection (1) by the person subject to the control order may be made only on the ground that—
- (a) the person can no longer reasonably comply with the order; and
 - (b) the person's inability to comply with the order is because of a material change in the person's circumstances since—
 - (i) if the order has previously been amended under this subdivision—the order was last amended; or
 - (ii) otherwise—the order was made.
- (4) The application must be accompanied by—
- (a) any affidavit the applicant intends to rely on at the hearing of the application; and
 - (b) if the application is for the amendment of the control order—a draft of the order the applicant is seeking from the court.
- (5) If the applicant is not the person subject to the control order, the applicant must give a copy of the application, and any documents required to accompany the application under subsection (4), to the person subject to the order.
- (6) If the applicant is the person subject to the control

order, a proper officer of the court must give a copy of the application, and any documents required to accompany the application under subsection (4), to the prosecuting authority.

- (7) The applicant must give the documents under subsection (5) or (6)—
- (a) as soon as practicable after the application is filed; and
 - (b) at least 21 days before the day on which the application is to be heard.

- (8) In this section—

prosecuting authority means—

- (a) if the prosecutor who appeared before the court when the control order was made was a police officer—the commissioner or a person authorised to accept the application on the commissioner’s behalf; or
- (b) if the prosecutor who appeared before the court when the control order was made was a Crown prosecutor—the director of public prosecutions or a person authorised to accept the application on the director’s behalf.

161ZE Court may amend order or remit application

- (1) A court may, on an application made to it under section 161ZD for the amendment of a control order, amend the order only if the court considers—
- (a) the person subject to the order can no longer reasonably comply with the order; and
 - (b) if the applicant is the person subject to the order, the person’s inability to comply with

[s 279]

the order is because of a material change in the person's circumstances since—

- (i) if the order has previously been amended under this subdivision—the order was last amended; or
 - (ii) otherwise—the order was made; and
- (c) it is reasonable in all the circumstances to amend the order.
- (2) An order amending the control order takes effect when the order is made.
- (3) If the application is made under section 161ZD(2) to a court of higher jurisdiction than the court that made the control order for the person, the court of higher jurisdiction may, instead of deciding the application, remit the application to the court that made the control order or a court of equivalent jurisdiction to that court.

161ZF Court may revoke order

- (1) A court may, on an application made to it under section 161ZD for the revocation of a control order, revoke the order only if the court considers—
- (a) the person subject to the order can no longer reasonably comply with the order; and
 - (b) the person's inability to comply with the order is because of a material change in the person's circumstances since—
 - (i) if the order has been amended—the order was last amended; or
 - (ii) otherwise—the order was made; and
 - (c) it is reasonable in all the circumstances to revoke the order.
- (2) The order revoking the control order takes effect

when the order is made.

161ZG Order amending or revoking control order to be given to interested persons

- (1) This section applies if a court makes an order under section 161ZE or 161ZF (a *relevant order*) amending or revoking a control order.
- (2) A proper officer of the court must immediately—
 - (a) reduce the relevant order to writing; and
 - (b) give a copy of the relevant order to—
 - (i) the person the subject of the control order that was amended or revoked by the relevant order; and
 - (ii) if the prosecutor who appeared before the court when the relevant order was made was a Crown prosecutor—the director of public prosecutions or a person authorised to accept the order on the director’s behalf; and
 - (iii) the commissioner or a person authorised to accept the order on the commissioner’s behalf; and
 - (iv) the chief executive (corrective services).
- (3) Failure to comply with subsection (2) does not invalidate the order.

Subdivision 3 Restrictions on use of particular information

161ZH Restrictions

- (1) This section applies to information given by a person in compliance with a condition of a control

[s 279]

order, or registered corresponding control order, that requires the person to give stated information.

- (2) The information is not admissible as evidence against the person in a proceeding other than—
 - (a) a proceeding against the person for an offence against section 161ZI; or
 - (b) a proceeding in which the person has adduced the information.
- (3) In this section—
information includes a document.

Subdivision 4 Enforcement

161ZI Contravention of order

- (1) A person must not contravene a control order, or a registered corresponding control order, made for the person.

Maximum penalty—

- (a) for a first offence in relation to the order—3 years imprisonment; or
- (b) for a later offence in relation to the order—5 years imprisonment.

Note—

Under section 161Y, the court may also make a control order for a person convicted of an offence against this section.

- (2) An offence against subsection (1) is—
 - (a) a misdemeanour, if the offence is a first offence in relation to the control order or registered corresponding control order; or

- (b) a crime, if the offence is a later offence in relation to the control order or registered corresponding control order.
- (3) An offence is a later offence to an earlier offence if the person commits the offence after the person is convicted of the earlier offence.
- (4) For a control order, subsection (1) applies whether the contravention of the order happens in or outside Queensland.
- (5) Without limiting subsection (1), if a person contravenes a control order made for the person (an *existing control order*), the court may, instead of making a further control order for the person under section 161Y, amend the existing control order for the person by—
 - (a) extending the order by not more than—
 - (i) if the order was made under section 161X—2 years; or
 - (ii) otherwise—5 years; or
 - (b) imposing any further conditions the court could impose if a further control order were made for the person.
- (6) In a proceeding against a person for an offence against subsection (1), it is a defence for the person to prove that the person had a reasonable excuse for contravening the control order or the registered corresponding control order.
- (7) It is not a reasonable excuse for a person not to comply with a condition of a control order, or registered corresponding control order, requiring the person to give stated information that complying with the condition might tend to incriminate the person or expose the person to a penalty.

[s 279]

Note—

See section 161ZH for the restrictions applying to the use of the stated information.

- (8) In a proceeding against a person for a contravention of a non-association condition, it is irrelevant whether or not the association related to the commission or potential commission of an offence.
- (9) In a proceeding against a person for a contravention of a non-association condition that has an exception about associating with a person with whom the person subject to the control order, or the registered corresponding control order, has a personal relationship, it is for the person subject to the order to prove that the person had a personal relationship with the other person at the relevant time.
- (10) A person does not commit an offence against subsection (1) in relation to a control order, or a registered corresponding control order, by possessing a thing the person is prohibited from possessing under the order unless the person is in possession of the thing after the end of—
 - (a) if the person is prohibited from possessing the thing under the order as originally made and the order takes effect when it is made—24 hours after the order is made; or
 - (b) if the person is prohibited from possessing the thing under the order as originally registered—24 hours after the order takes effect; or
 - (c) if the person is prohibited from possessing the thing because of an amendment of the order—24 hours after the amendment takes effect.
- (11) In this section—

non-association condition means—

- (a) a condition of a control order mentioned in section 161U(2)(a)(i), whether or not the condition includes an exception about associating with another person with whom the person subject to the control order has a personal relationship; or
- (b) a condition of a registered corresponding control order that corresponds to a condition mentioned in paragraph (a).

161ZJ Initial power to search and seize particular things

- (1) The power under this section—
 - (a) may only be exercised in relation to a person subject to a control order, or a registered corresponding control order, within 7 days after—
 - (i) for a control order that takes effect when it is made—the order is made; or
 - (ii) for a registered corresponding control order—a copy of the order is given to the person under section 161ZZA; and
 - (b) may only be exercised once for the premises occupied by the person or, if the person occupies 2 or more premises, once for each of the premises.
- (2) A police officer may with the help, and using the force, that is reasonably necessary—
 - (a) enter premises occupied by the person; and
 - (b) search for and seize anything the person is prohibited from possessing under the control order or the registered corresponding control order.

[s 279]

- (3) Before first entering the premises, the police officer must do, or make a reasonable attempt to do, the following—
- (a) locate the person;
 - (b) identify himself or herself to the person;
 - (c) tell the person—
 - (i) the purpose of the entry; and
 - (ii) that the police officer is permitted under this Act to enter the premises without the person’s consent; and
 - (iii) about the police officer’s powers under this section;
 - (d) give the person an opportunity to allow the police officer to enter the premises without using force.
- (4) In this section—
- enter*** includes re-enter.
- premises*** includes—
- (a) a building or structure, or part of a building or structure, of any type; and
 - (b) a group of buildings or structures, or part of a group of buildings or structures, of any type; and
 - (c) the land or water where a building or structure, or a group of buildings or structures, is situated; and
 - (d) a vehicle or caravan; and
 - (e) a tent or cave; and
 - (f) a boat; and
 - (g) an ocean-going vessel; and

- (h) premises held under 2 or more titles or owners.

161ZK Things seized within the first 24 hours

- (1) This section applies if—
 - (a) a person possesses a thing the person is prohibited from possessing under a control order or a registered corresponding control order; and
 - (b) a period of 24 hours has not passed since—
 - (i) for a control order that takes effect when it is made—the order was made; or
 - (ii) for a registered corresponding control order—a copy of the order was given to the person under section 161ZZA.
- (2) A police officer may seize the thing under section 161ZJ.
- (3) The seized thing must be—
 - (a) kept in the commissioner’s custody while the order remains in force; and
 - (b) returned to the person when the control order stops having effect, if the person is entitled to lawful possession of the thing at that time.

161ZL Police powers for preventing contravention of control order

- (1) This section applies if a police officer reasonably suspects an offence against section 161ZI has been committed, is being committed, or is about to be committed in relation to a control order or a registered corresponding control order.

[s 279]

- (2) The police officer may exercise 1 or more of the following powers in relation to the person subject to the control order or registered corresponding control order—
- (a) if the order prohibits the person from associating with a stated person or a person of a stated class—require the person subject to the order to leave a place where the stated person or person of the stated class is present and not to return to the place within a stated reasonable time of not more than 24 hours;
 - (b) if the order prohibits the person from entering or being in the vicinity of a stated place or a place of a stated class—require the person subject to the order to leave—
 - (i) the stated place or a place of the stated class; or
 - (ii) the vicinity of a place mentioned in subparagraph (i).
- (3) However, subsection (2) does not apply if requiring the person to leave the place may endanger the safety of the person or another person.
- (4) A requirement made under this section is taken to be a requirement made under the *Police Powers and Responsibilities Act 2000*.

Note—

Failure to comply with a requirement made under this section is an offence against the *Police Powers and Responsibilities Act 2000*, section 791.

- (5) A person does not commit an offence against the *Police Powers and Responsibilities Act 2000*, section 791 if—
- (a) the person was required to do something under subsection (2); and

- (b) the court is not satisfied the police officer, at the time of giving the direction, had the suspicion mentioned in subsection (1).
- (6) In this section—
place see the *Police Powers and Responsibilities Act 2000*, schedule 6.

161ZM Authorised corrective services officer may give direction

- (1) If a control order, or registered corresponding control order, for a person includes a condition requiring the person to comply with a reasonable direction given by an authorised corrective services officer about a stated matter, an authorised corrective services officer may give the person a reasonable direction about the stated matter.
- (2) In giving a direction under subsection (1), an authorised corrective services officer is subject to the directions of—
 - (a) for a control order—the court that made the order; or
 - (b) for a registered corresponding control order—the Supreme Court.

161ZN Proceeding after order no longer in force

A proceeding for a contravention of a control order, or a registered corresponding control order, may be taken, and the offender may be dealt with, under this subdivision for the contravention even if the order is no longer in force.

[s 279]

161ZO Charge must be heard and decided summarily on prosecution election

- (1) This section applies to a charge before a Magistrates Court of an offence against section 161ZI.
- (2) The charge must be heard and decided summarily if the prosecution elects to have the charge heard and decided summarily.
- (3) This section is subject to section 161ZQ.

161ZP Constitution of Magistrates Court

A Magistrates Court that summarily deals with a charge under section 161ZO must be constituted by a magistrate.

161ZQ When Magistrates Court must abstain from jurisdiction

- (1) A Magistrates Court must abstain from dealing summarily with a charge under section 161ZO if satisfied, at any stage, and after hearing any submissions by the prosecutor and the defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.
- (2) If the court abstains from jurisdiction, the proceeding for the charge must be conducted as a committal proceeding.

161ZR Charge may be heard and decided where defendant arrested or served

Without limiting the places at which a charge may be heard summarily under section 161ZO, the charge may also be heard and decided at a place appointed for holding magistrates courts within

the district in which the defendant was arrested on the charge or served with the summons for the charge under the *Justices Act 1886*.

161ZS Time for prosecution

If a Magistrates Court hears and decides a charge summarily under section 161ZO, the Magistrates Court has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.

161ZT Maximum penalty for offence dealt with summarily

- (1) The maximum penalty that may be imposed on a summary conviction for an offence against section 161ZI is 3 years imprisonment.
- (2) Subsection (1) does not limit section 161Y.
- (3) However, in no case may a person be punished more than if the offence had been dealt with on indictment.

161ZU Appeals against decision to decide charge summarily

- (1) This section applies if a person is summarily convicted or sentenced under section 161ZO.
- (2) The grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily.
- (3) The grounds on which the Attorney-General may appeal against sentence include that the Magistrates Court erred by deciding the sentence summarily.
- (4) On an appeal against a sentence relying on a ground that the Magistrates Court erred by

[s 279]

proceeding summarily, the court deciding the appeal may, if it decides to vary the sentence, impose the sentence the court considers appropriate up to the maximum sentence that could have been imposed if the matter had been dealt with on indictment.

Subdivision 5 Corresponding control orders

161ZV Definitions for subdivision

In this subdivision—

court means the Supreme Court.

registrar means a registrar of the Supreme Court.

respondent see section 161ZY(1)(b).

161ZW Regulation may prescribe orders

A regulation may prescribe an order to be a corresponding control order if the order—

- (a) is made under a law of another State; and
- (b) has the same or a similar effect as a control order.

161ZX Application for registration of order

- (1) The commissioner may apply to the registrar for the registration of a corresponding control order.
- (2) The application must be accompanied by —
 - (a) an affidavit that includes or is accompanied by—
 - (i) a copy of the corresponding control order; and

-
- (ii) enough information to enable the registrar to find that the order is a corresponding control order that is in force; and
 - (b) any other affidavit the commissioner intends to rely on at the hearing of the application.
- (3) Also, the application must state—
- (a) whether the commissioner believes it is necessary for the corresponding control order to be adapted or modified for its effective operation in Queensland; and
 - (b) if so, the details of the adaptation or modification the commissioner believes is necessary.

Example—

A condition of a corresponding control order is expressed in terms of legislation of the State in which the order was made. The application may state that the commissioner believes it is necessary for the order to be modified to refer to Queensland legislation.

161ZY Registration of order

- (1) This section applies if the registrar is satisfied—
 - (a) the corresponding control order is in force; and
 - (b) the corresponding control order was served, or was taken to be served, on the person for whom it was made (the *respondent*) under the law of the State in which the order was made.
- (2) The registrar must register the corresponding control order, whether or not the respondent is given notice of the application to the registrar.
- (3) A registered corresponding control order is registered for the period during which the

[s 279]

corresponding control order, as originally made, is in force.

- (4) A regulation may—
 - (a) prescribe the way the registrar is to register a corresponding control order or an amended corresponding control order; and
 - (b) provide for the keeping of the register and access to it.
- (5) Subsection (2) applies subject to section 161ZZ.

161ZZ Referral of order to court for adaptation or modification

- (1) This section applies if—
 - (a) under section 161ZX(3)(b), the application states an adaptation or modification that the commissioner believes is necessary for the effective operation of the corresponding control order in Queensland; or
 - (b) the registrar believes it is necessary for the corresponding control order to be adapted or modified for its effective operation in Queensland.
- (2) The registrar must refer the corresponding control order to the court for adaptation or modification.
- (3) The commissioner must give the respondent—
 - (a) a copy of the application for registration of the corresponding control order; and
 - (b) a copy of any accompanying affidavit; and
 - (c) an appearance notice.
- (4) The application may be heard in the respondent's absence if the court is satisfied the respondent has been given the documents mentioned in subsection (3).

- (5) However, the court may, at any time before deciding the application, direct the commissioner to give the respondent a further appearance notice.
- (6) The court may amend the corresponding control order for the purposes of its registration by adapting or modifying it in a way the court considers necessary or desirable for its effective operation in Queensland.
- (7) For amending the corresponding control order as mentioned in subsection (6), the court must consider—
 - (a) anything the court could consider on an application under subdivision 1 for a control order; and
 - (b) any changes in the respondent's circumstances since the order was made.
- (8) The registrar must register the corresponding control order as amended by the court.
- (9) In this section—

appearance notice means a notice in the approved form stating the following in relation to a corresponding control order—

 - (a) that an application for the registration of the order has been referred to the court;
 - (b) when and where the application is to be heard;
 - (c) that the respondent may appear at the hearing of the application in person or be represented by a lawyer;
 - (d) that, if the respondent fails to appear at the hearing of the application, the court may register the order, or the order as amended by the court, in the respondent's absence.

161ZZA Action by the registrar and commissioner after registration of order

- (1) The registrar must, within 2 business days after registering a corresponding control order, give the commissioner a certificate of the registration that attaches a copy of the registered order.
- (2) The commissioner must, as soon as practicable after receiving a copy of the registered corresponding control order, give the respondent a copy of the registered order.
- (3) Failure to comply with subsection (2) does not affect the validity of the registration of the corresponding control order.
- (4) However, the registered corresponding control order has no effect on the respondent until the respondent is given a copy of the registered order.
- (5) The registrar may not ask the commissioner for any fee, or reimbursement for any expenses incurred, under this subdivision.

161ZZB Effect of amended order if respondent not notified of amendment

- (1) This section applies if—
 - (a) a corresponding control order has been amended under section 161ZZ; and
 - (b) the respondent has not been notified of the amendment.
- (2) Until the respondent is notified of the amendment, the registered corresponding control order has effect and is enforceable against the respondent as if it had not been amended.

161ZZC Amendment or cancellation of registered order

- (1) The court may, on application, amend or cancel a registered corresponding control order.
- (2) Subdivision 2, other than section 161ZD(2), applies to the registered corresponding control order as if—
 - (a) a reference in the subdivision to a control order were a reference to a registered corresponding control order; and
 - (b) a reference in the subdivision to the revocation of a control order were a reference to the cancellation of a registered corresponding control order; and
 - (c) a reference in the subdivision to when a control order was last amended under subdivision 2 were a reference to when a registered corresponding control order was last amended under this section; and
 - (d) a reference in the subdivision to when a control order was made were a reference to when a registered corresponding control order was registered under this subdivision; and
 - (e) a reference in the subdivision to the prosecuting authority were a reference to the commissioner or a person authorised to accept an application made under this section on the commissioner's behalf.
- (3) If the court cancels the registration of a registered corresponding control order under this section, the order, or the order as amended under this Act, stops having effect in Queensland.

[s 280]

161ZZD Operation of order not affected

Sections 161ZZA(4) and 161ZZB(2) do not affect any operation that a corresponding control order would, apart from this division, have in Queensland.

Subdivision 6 Miscellaneous

161ZZE Order not affected by appeal

The starting of an appeal against the making of a control order for a person does not affect the order.

280 Amendment of s 171 (Review—periodic)

(1) Section 171(1)(a), after ‘subsection (2)—

insert—

or (2A)

(2) Section 171—

insert—

(2A) However, for subsection (1)(a), if the indefinite sentence is imposed on the offender as the base component of a sentence under section 161R(2), the period of time the offender must have served is worked out by adding the relevant further period to the period of time the offender would otherwise be required to have served under subsection (2).

(5) In this section—

relevant further period, in relation to an offender whose indefinite sentence is imposed as the base component of a sentence under section 161R(2), means the period of the mandatory component of the sentence imposed on the offender under that

section.

281 Amendment of s 187 (Disqualification from holding Queensland driver licence)

(1) Section 187(2)—

omit, insert—

(2) Subsection (1) applies whether or not a conviction is recorded.

(2) Section 187(4)—

omit.

282 Insertion of new pt 14, div 16

Part 14—

insert—

Division 16 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

Subdivision 1 Transitional provisions for repeal of Vicious Lawless Association Disestablishment Act 2013

243 Definitions for subdivision

In this subdivision—

commencement means the commencement of the *Serious and Organised Crime Legislation Amendment Act 2016*, part 35.

repealed VLAD Act means the *Vicious Lawless*

Association Disestablishment Act 2013 repealed by the *Serious and Organised Crime Legislation Amendment Act 2016*, part 35.

244 Application of subdivision

This subdivision applies if a court has in, or in connection with, a criminal proceeding, including, for example, a proceeding on appeal, sentenced a person as a vicious lawless associate for a declared offence under the repealed VLAD Act, section 7.

245 Application to Supreme Court to reopen sentencing proceedings

- (1) The person may apply to the Supreme Court to reopen the proceeding to the extent the court imposed on the person either or both of the following—
 - (a) a further sentence of 15 years imprisonment served wholly in a corrective services facility under the repealed VLAD Act, section 7(1)(b);
 - (b) a further sentence of 10 years imprisonment served wholly in a corrective services facility under the repealed VLAD Act, section 7(1)(c).
- (2) The application must be made within 3 months after the commencement.
- (3) The court may, at any time, extend the period mentioned in subsection (2).
- (4) The court must give a copy of the application to the director of public prosecutions.
- (5) Within 10 business days after the making of the application, the court must give directions to enable the application to be heard.

246 Supreme Court may reopen sentencing proceedings

- (1) On the hearing of an application under section 245, the Supreme Court may reopen the proceeding to the extent mentioned in section 245(1).
- (2) The Supreme Court may also, at any time, reopen the proceeding to the extent mentioned in section 245(1) if a court reopens the proceeding under section 188.
- (3) If the Supreme Court reopens the proceeding under subsection (1) or (2), the court must—
 - (a) give the parties an opportunity to be heard; and
 - (b) if the person was sentenced under the repealed VLAD Act, section 7(1)(a) to a sentence other than life imprisonment or an indefinite sentence—resentence the person to a further sentence as if the law applicable to the further sentence were the law mentioned in section 161R(2)(b); and
 - (c) if the person was sentenced under the repealed VLAD Act, section 7(1)(a) to life imprisonment or an indefinite sentence—resentence the person to a further sentence as if the law applicable to the further sentence were the *Corrective Services Act 2006*.
- (4) The court may have regard to—
 - (a) relevant material admitted before the court during the previous trial and sentence of the person; and
 - (b) any other material relevant to the further sentence.
- (5) If the previous sentencing court reduced, under

[s 282]

section 13A, the further sentence imposed under the repealed VLAD Act, section 7(1)(b) or (c), the court must have regard to the material placed on the court file under section 13A(7)(c).

- (6) Subsection (5) does not—
- (a) affect an order prohibiting publication that has been made in relation to the material under section 13A(8); or
 - (b) limit the reopening of a proceeding under section 188.
- (7) Also, if the Supreme Court reopens the proceeding under subsection (2), and the court that reopened the proceeding under section 188 was a court other than the Supreme Court, the Supreme Court may remit the resentencing of the person under subsection (3)(b) or (c) to the other court.
- (8) In this section—
- indefinite sentence* means an indefinite sentence under part 10.

247 Appeals

If a further sentence is imposed under section 246, the person, and the Attorney-General, have the same rights to appeal against the further sentence as if it were the further sentence originally imposed on the person.

248 No cause of action

No cause of action may be started or continued against the State in relation to any period of imprisonment the person may have actually served that is more than the period of imprisonment the person would have served if originally sentenced to the further sentence

imposed under section 246.

Subdivision 2 Other transitional provisions

249 Making of control order for offender convicted of committing indictable offence before commencement

Section 161W applies to the sentencing of an offender convicted of an indictable offence after the commencement whether the offence was committed before or after the commencement.

250 Application of amended s 187

Section 187, as amended by the *Serious and Organised Crime Legislation Amendment Act 2016*, applies to the sentencing of an offender for an offence after the commencement whether the proceeding for the offence was started before or after the commencement.

251 Application of s 161Q to particular prescribed offences

- (1) This section applies if—
 - (a) an offender is convicted of an offence against—
 - (i) the Criminal Code, section 218B, 229B or 229HB; or
 - (ii) the *Drugs Misuse Act 1986*, section 5 or 9D; or
 - (iii) the *Weapons Act 1990*, section 65; and
 - (b) the offence is committed partly, but not wholly, after the commencement.

[s 283]

- (2) Section 161Q applies in relation to the offence only if, at a time after the commencement, the offender—
- (a) was a participant in a criminal organisation; and
 - (b) knew, or ought reasonably to have known, a matter mentioned in section 161Q(1)(b).

283 Amendment of sch 1 (Serious violent offences)

Schedule 1, under the heading ‘Drugs Misuse Act 1986’, item 1—

omit, insert—

- 1 section 5 (Trafficking in dangerous drugs), if the offender is sentenced for the offence on or after the commencement of the *Serious and Organised Crime Legislation Amendment Act 2016*, section 164, whether the offence or conviction happened before or after that commencement

284 Insertion of new sch 1C

After schedule 1B—

insert—

Schedule 1C Prescribed offences

section 161N, definition *prescribed offence*

Criminal Code

- section 61 (Riot)
- section 87 (Official corruption)

- section 92A (Misconduct in relation to public office)
- section 119B (Retaliation against or intimidation of judicial officer, juror, witness etc.)
- section 122 (Corruption of jurors)
- section 127 (Corruption of witnesses)
- section 140 (Attempting to pervert justice)
- section 210 (Indecent treatment of children under 16)
- section 213 (Owner etc. permitting abuse of children on premises)
- section 215 (Carnal knowledge with or of children under 16)
- section 217 (Procuring young person etc. for carnal knowledge)
- section 218 (Procuring sexual acts by coercion etc.)
- section 218A (Using internet etc. to procure children under 16)
- section 218B (Grooming children under 16)
- section 219 (Taking child for immoral purposes)
- section 228A (Involving child in making child exploitation material)
- section 228B (Making child exploitation material)
- section 228C (Distributing child exploitation material)
- section 228D (Possessing child exploitation material)

[s 284]

- section 228DA (Administering child exploitation material website)
- section 228DB (Encouraging use of child exploitation material website)
- section 228DC (Distributing information about avoiding detection)
- section 229B (Maintaining a sexual relationship with a child)
- section 229G (Procuring engagement in prostitution)
- section 229H (Knowingly participating in provision of prostitution)
- section 229HB (Carrying on business of providing unlawful prostitution)
- section 229K (Having an interest in premises used for prostitution etc.)
- section 229L (Permitting young person etc. to be at place used for prostitution)
- sections 302 (Definition of *murder*) and 305 (Punishment of murder)
- sections 303 (Definition of *manslaughter*) and 310 (Punishment of manslaughter)
- section 306 (Attempt to murder)
- section 307 (Accessory after the fact to murder)
- section 308 (Threats to murder in document)
- section 309 (Conspiring to murder)
- section 314A (Unlawful striking causing death)
- section 317 (Acts intended to cause grievous bodily harm and other malicious acts)

- section 317A (Carrying or sending dangerous goods in a vehicle)
- section 320 (Grievous bodily harm)
- section 320A (Torture)
- section 321 (Attempting to injure by explosive or noxious substances)
- section 339 (Assaults occasioning bodily harm), if the offence is committed in circumstances where the offender is liable to imprisonment for 10 years
- section 340(1)(b) (Serious assaults), if the offence is committed in circumstances where the offender is liable to imprisonment for 14 years
- section 349 (Rape)
- section 350 (Attempt to commit rape)
- section 351 (Assault with intent to commit rape)
- section 352 (Sexual assaults)
- section 354 (Kidnapping)
- section 354A (Kidnapping for ransom)
- section 359 (Threats), if the offence is committed in circumstances where the offender is liable to imprisonment for 10 years
- section 359E (Punishment of unlawful stalking)
- section 398 (Punishment of stealing), if item 14 (Stealing firearm for use in another indictable offence) or 15 (Stealing firearm or ammunition) applies
- section 408C (Fraud), if the offence is committed in circumstances where the

[s 284]

offender is liable to imprisonment for 14 or more years

- section 408D (Obtaining or dealing with identification information)
- sections 409 (Definition of *robbery*) and 411(1) or (2) (Punishment of robbery)
- section 412 (Attempted robbery)
- section 415 (Extortion)
- section 419(1), but only if section 419(3) applies, or 419(4) (Burglary)
- section 433 (Receiving tainted property)

Criminal Proceeds Confiscation Act 2002

- section 250 (Money laundering)

Drugs Misuse Act 1986

Note—

See the *Evidence Act 1977*, section 132C in relation to findings of fact on sentencing.

- section 5 (Trafficking in dangerous drugs)
- section 6 (Supplying dangerous drugs), if the offence is committed with a commercial purpose
- section 7 (Receiving or possessing property obtained from trafficking or supplying)
- section 8 (Producing dangerous drugs), if the offence is committed with a commercial purpose

- section 9B (Supplying relevant substances or things), if the offence is committed with a commercial purpose
- section 9C (Producing relevant substances or things), if the offence is committed with a commercial purpose
- section 9D (Trafficking in relevant substances or things)

Weapons Act 1990

- section 50B (Unlawful supply of weapons), if either of the following applies—
 - the penalty, paragraph (a), (b) or (c)(i) or (ii)
 - the penalty, paragraph (c)(iii) for a category A or B weapon or category M crossbow
- section 65 (Unlawful trafficking in weapons)

Part 20

Amendment of Penalties and Sentences Regulation 2015

285 Regulation amended

This part amends the *Penalties and Sentences Regulation 2015*.

286 Insertion of new s 9A

After section 9—

insert—

[s 287]

9A Corresponding control orders—Act, s 161ZW

For section 161ZW of the Act, each of the following is prescribed to be a corresponding control order—

- (a) a serious crime prevention order under the *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW);
- (b) a control order under the *Serious Crime Control Act* (NT), if the order is made on the ground mentioned in section 23(1)(d) of that Act;
- (c) a control order under the *Serious and Organised Crime (Control) Act 2008* (SA), if the court is satisfied of the matter mentioned in section 22(2)(c) of that Act.

Part 21 Amendment of Police Powers and Responsibilities Act 2000

Division 1 Preliminary

287 Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

Note—

See also the amendments in schedule 1.

Division 2 Amendments commencing on assent

288 Amendment of s 30 (Prescribed circumstances for searching persons without warrant)

Section 30—

insert—

- (g) the person has committed, is committing, or is about to commit an offence against the *Penalties and Sentences Act 1992*, section 161ZI;
- (h) the person has committed, or is committing, an offence against the *Summary Offences Act 2005*, section 10C.

289 Amendment of s 31 (Searching vehicles without warrant)

Section 31(5)(c), ‘section 32(b)’—

omit, insert—

section 32(1)(b)

290 Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)

- (1) Section 32, from ‘The’ to ‘organisation or’—

omit, insert—

It is a prescribed circumstance for searching a vehicle without a warrant that

- (2) Section 32—

insert—

- (n) may be evidence of the commission of an offence against the *Penalties and Sentences Act 1992*, section 161ZI.

[s 291]

(3) Section 32—

insert—

- (2) Also, the following are prescribed circumstances for searching a vehicle without a warrant—
- (a) the driver or a passenger in the vehicle has committed, or is committing, an offence against the *Summary Offences Act 2005*, section 10C;
 - (b) the vehicle is being used by, or is in the possession of, a participant in a criminal organisation.

291 Amendment of ch 4A hdg (Motor vehicle forfeiture for particular criminal organisation offences)

Chapter 4A, heading, ‘particular’—

omit.

292 Replacement of s 123B (Meaning of *criminal organisation offence*)

Section 123B—

omit, insert—

123B Meaning of *criminal organisation offence*

- (1) A *criminal organisation offence* means an offence against the Criminal Code, section 60A or 60B committed in relation to a motor vehicle.
- (2) For subsection (1), an offence is committed in relation to a motor vehicle if the vehicle is used by the offender in connection with the commission of the offence, including, for example, using the vehicle during the commission of the offence.

293 Amendment of s 123G (Impounding motor vehicles for criminal organisation offence)

Section 123G(2), note, from ‘, the proceeding’—

omit, insert—

or the proceeding for the criminal organisation offence is discontinued.

294 Amendment of s 123X (Decision on application for release of impounded motor vehicle on basis of severe hardship)

(1) Section 123X(9), ‘any’—

omit, insert—

either

(2) Section 123X(9)(c)—

omit.

295 Amendment of s 123Z (Decision on application for release of impounded motor vehicle on basis criminal organisation offence happened without owner’s consent)

(1) Section 123Z(7), ‘any’—

omit, insert—

either

(2) Section 123Z(7)(c)—

omit.

296 Amendment of s 123ZB (Decision on application for release of impounded motor vehicle on basis that offender not a participant in a criminal organisation)

(1) Section 123ZB(7), ‘any’—

omit, insert—

either

[s 297]

(2) Section 123ZB(7)(c)—
omit.

297 Amendment of s 123ZS (State's liability to pay costs of impounding)

Section 123ZS(2)(c)—
omit.

298 Amendment of s 123ZX (Release of motor vehicle if driver found not guilty etc.)

Section 123ZX(1)(c)—
omit.

299 Amendment of s 123ZZC (Compensation for disposal of motor vehicle if driver found not guilty etc.)

(1) Section 123ZZC(1)(a), 'any'—
omit, insert—

either

(2) Section 123ZZC(1)(a)(iii)—
omit.

300 Amendment of s 150AA (Definitions)

(1) Section 150AA, definition *criminal organisation control order property*—

omit.

(2) Section 150AA—
insert—

access information means information that is necessary for a person to access and read information stored electronically on a storage

device.

control order property means anything under a person's control that the person is prohibited from possessing under a control order or a registered corresponding control order under the *Penalties and Sentences Act 1992*.

employee includes a person who works under a contract for services.

issuer see section 150(7).

relevant evidence means—

- (a) evidence of the commission of an offence; or
- (b) evidence that may be confiscation related evidence.

specified person means a person who—

- (a) is—
 - (i) reasonably suspected of having committed an offence for which a search warrant was issued; or
 - (ii) the owner of a storage device; or
 - (iii) in possession of a storage device; or
 - (iv) an employee of the owner or person in possession of a storage device; or
 - (v) a person who uses or has used a storage device; or
 - (vi) a person who is or was a system administrator for the computer network of which a storage device forms or formed a part; and
- (b) has a working knowledge of—
 - (i) how to access and operate a storage device or a computer network of which

[s 301]

the storage device forms or formed a part; or

- (ii) measures applied to protect information stored on a storage device.

storage device means a device on which information may be stored electronically, including a computer.

stored, on a storage device, includes accessible through the device.

301 Amendment of s 150 (Search warrant application)

- (1) Section 150(1)(d)—

omit, insert—

(d) to find control order property.

- (2) Section 150(3)(d)—

omit, insert—

(d) control order property.

302 Amendment of s 154 (Order in search warrant about information necessary to access information stored electronically)

- (1) Section 154(1), from ‘order’ to ‘place’—

omit, insert—

, order a specified person to do any of the following in relation to a storage device in the person’s possession, or to which the person has access, at the place

- (2) Section 154(1)(a), before ‘necessary’—

insert—

and any other information or assistance

- (3) Section 154(1)(b)—

insert—

- (iv) convert information stored on the device that may be relevant evidence into documentary form or another form that enables it to be understood by a police officer.

(4) Section 154(2)—

omit, insert—

- (2) If the issuer is a magistrate or a judge, the issuer may also, in the search warrant, order that, if the storage device is seized and removed from the place, a specified person is required to do a thing mentioned in subsection (1)(a) or (b) after the device has been removed.
- (3) An order made under subsection (2) must state—
 - (a) the time at or by which the specified person must give a police officer the information or assistance; and
 - (b) the place where the specified person must provide the information and assistance; and
 - (c) any conditions to which the provision of the information or assistance is subject.

303 Insertion of new ss 154A and 154B

After section 154—

insert—

154A Order for access information after storage device has been seized

- (1) This section applies if—
 - (a) a storage device is seized under the search warrant and removed from the place; and
 - (b) either—

[s 303]

- (i) the search warrant did not contain an order made under section 154(1) or (2); or
 - (ii) the search warrant contained an order made under section 154(1) or (2) but further access information is required for a police officer to gain access to information stored on the device that may be relevant evidence.
- (2) On the application of a police officer, a magistrate or a judge may make an order requiring a specified person to do a thing mentioned in section 154(1)(a) or (b).
- (3) An application made under subsection (2)—
 - (a) may be made at any time after the warrant has been issued; and
 - (b) must be made—
 - (i) if the search warrant was issued by a judge—to a Supreme Court judge; or
 - (ii) if the search warrant was issued by a magistrate—to a magistrate.
- (4) An order made under subsection (2) must state—
 - (a) the time at or by which the specified person must give a police officer the information or assistance; and
 - (b) the place where the specified person must provide the information or assistance; and
 - (c) any conditions to which the provision of the information or assistance is subject; and
 - (d) that failure, without reasonable excuse, to comply with the order may be dealt with under the Criminal Code, section 205A.
- (5) A magistrate or a judge may make an order under subsection (2) only if satisfied there are

reasonable grounds for suspecting that information stored on the storage device may be relevant evidence.

154B Compliance with order about information necessary to access information stored electronically

A person is not excused from complying with an order made under section 154(1) or (2) or 154A(2) on the ground that complying with it may tend to incriminate the person or make the person liable to a penalty.

304 Amendment of s 156 (What search warrant must state)

(1) Section 156(1)(b)(iv), after ‘impound’—

insert—

or immobilise

(2) Section 156(1)(b)(v)—

omit, insert—

(v) control order property—brief details of the control order or registered corresponding control order under the *Penalties and Sentences Act 1992*; and

(3) Section 156(3)—

omit, insert—

(3) If a magistrate or a judge makes an order under section 153 or 154(1) or (2), the warrant must also state that failure, without reasonable excuse, to comply with the order may be dealt with under—

(a) for section 153—the Criminal Code, section 205; or

(b) for section 154(1) or (2)—the Criminal Code, section 205A.

[s 305]

305 Amendment of s 180 (Production notices)

(1) Section 180(2), before ‘magistrate’—

insert—

justice or a

(2) Section 180(5)—

omit, insert—

(5) The justice or magistrate (the *issuer*) may refuse to consider the application until the police officer gives the issuer all the information the issuer requires about the application in the way the issuer requires.

Example—

The issuer may require additional information supporting the application to be given by statutory declaration.

306 Amendment of s 181 (Issue of production notice)

Section 181, before ‘magistrate’—

insert—

justice or the

307 Amendment of s 754 (Offence for driver of motor vehicle to fail to stop motor vehicle)

Section 754(2), minimum penalty—

omit, insert—

Minimum penalty—50 penalty units or 50 days imprisonment served wholly in a corrective services facility.

308 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definitions *criminal organisation* and *participant*—

omit.

(2) Schedule 6—

insert—

access information, for chapter 7, part 1, see section 150AA.

control order property, for chapter 7, part 1, see section 150AA.

criminal organisation—

- (a) see the *Penalties and Sentences Act 1992*, section 161O; and
- (b) includes an entity declared by regulation under the Criminal Code, section 1, definition *criminal organisation*, paragraph (b), to be a criminal organisation.

employee, for chapter 7, part 1, see section 150AA.

issuer, for chapter 7, part 1, see section 150(7).

participant—

- (a) in a criminal organisation, see the *Penalties and Sentences Act 1992*, section 161P; or
- (b) for chapter 11, see section 229.

relevant evidence, for chapter 7, part 1, see section 150AA.

specified person, for chapter 7, part 1, see section 150AA.

storage device, for chapter 7, part 1, see section 150AA.

stored, for chapter 7, part 1, see section 150AA.

warrant evidence or property, for chapter 7, part 1, see section 150AA.

313 Amendment of s 41 (Prescribed circumstances for requiring name and address)

(1) Section 41(ba)—

omit.

(2) Section 41(e), ‘someone’—

omit, insert—

a person

(3) Section 41(n), ‘or is giving’—

omit, insert—

, is giving, or has given

(4) Section 41—

insert—

(o) a police officer is about to give, is giving, or has given a person any of the following under the *Peace and Good Behaviour Act 1982*—

(i) a public safety order;

(ii) a restricted premises order;

(iii) a fortification removal order;

(p) a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.

314 Insertion of new s 41A

Chapter 2, part 4, division 1—

insert—

41A Power to require identifying particulars of person for official warning for consorting

(1) This section applies if—

[s 315]

- (a) a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders; and
- (b) the police officer has required the person, under section 40(2), to give evidence of the correctness of the person's stated name and address; and
- (c) the person can not provide evidence of the correctness of the person's stated name and address when the requirement is made or at another convenient location.

Example of another convenient location—

the person's vehicle, containing the person's driver's licence, parked nearby

- (2) The police officer may require the person to allow the police officer to take or photograph all or any of the person's identifying particulars for the sole purpose of establishing the name, address and date of birth of the person.
- (3) The identifying particulars must be destroyed, in the presence of a justice, as soon as practicable after establishing the name, address and date of birth of the person.
- (4) A person does not commit an offence against section 791 if—
 - (a) the person was required to do something under subsection (2); and
 - (b) the court is not satisfied that the police officer, at the time of making the requirement, had the power under subsection (1) to make the requirement.

315 Insertion of new s 43B

Chapter 2, part 4—

insert—

43B Power to require date of birth of person for official warning for consorting

- (1) This section applies if a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.
- (2) The police officer may require the person to state the person's correct date of birth, whether or not when requiring the person to state the person's correct name and address.
- (3) Also, the police officer may require the person to give evidence of the correctness of the stated date of birth if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated date of birth or to otherwise be able to give the evidence.
- (4) A person does not commit an offence against section 791 if—
 - (a) the person was required to do something under subsection (2) or (3); and
 - (b) the court is not satisfied that the police officer, at the time of making the requirement, had the power under subsection (1) to make the requirement.

316 Insertion of new ch 2, pt 6A

Chapter 2—

insert—

Part 6A

Prevention of criminal consorting

[s 316]

Note—

See the following provisions for related police powers—

- section 30(i) (Prescribed circumstances for searching persons without warrant)
- section 32(2)(b) (Prescribed circumstances for searching vehicle without warrant)
- section 41(p) (Prescribed circumstances for requiring name and address)
- section 41A (Power to require identifying particulars of person for official warning for consorting)
- section 43B (Power to require date of birth of person for official warning for consorting)
- section 60(3)(k) (Stopping vehicles for prescribed purposes)

53BAA Definitions for part

In this part—

consort—

- (a) has the meaning given by the Criminal Code, section 77A; and
- (b) does not include an act of consorting mentioned in the Criminal Code, section 77C that is reasonable in the circumstances.

offence of habitually consorting means an offence against the Criminal Code, section 77B.

official warning, for consorting, means a warning given in person, whether orally or in writing, that—

- (a) a stated person is a recognised offender; and
- (b) consorting with the stated person on a further occasion may lead to the commission of the offence of habitually consorting.

recognised offender means a recognised offender

who is at least 18 years.

53BAB Part does not apply to child

An official warning may not be given to a child.

53BAC Police powers for giving official warning for consorting

- (1) This section applies if a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.
- (2) The police officer may stop the person and require the person to remain at the place where the person is stopped for the time reasonably necessary for the police officer to do any or all of the following—
 - (a) confirm or deny the police officer's suspicion, including, for example, by exercising a power under section 40 or 43B;
 - (b) give the person an official warning for consorting;
 - (c) if the official warning is given orally—confirm under subsection (5) the official warning.

Note—

Failure to comply with a requirement given under this subsection is an offence against section 791.

- (3) However, before giving an official warning under subsection (2)(b), the police officer must consider whether it is appropriate to give the warning having regard to the object of disrupting and preventing criminal activity by deterring recognised offenders from establishing, maintaining or expanding a criminal network.

[s 316]

- (4) If an official warning for consorting is given in writing, the warning must be in the approved form.
- (5) If an official warning for consorting is given orally, the police officer must, within 72 hours after giving the warning orally, confirm the warning by giving it, in the approved form, to the person in the prescribed way.
- (6) Unless the contrary is proved—
 - (a) an approved form given by post is taken to have been received by the person to whom the form was addressed when the form would have been delivered in the ordinary course of post; and
 - (b) an approved form given by electronic means is taken to have been received by the person to whom the form was sent on the day the form was sent to the electronic address nominated by the person to a police officer.
- (7) If practicable, the giving of an official warning under subsection (2)(b) must be electronically recorded.
- (8) To remove any doubt, it is declared that—
 - (a) an official warning for consorting may be given to a person in relation to a recognised offender before, during or after the person has consorted with the recognised offender; and
 - (b) a failure to comply with subsection (3) does not affect the validity of an official warning for consorting.
- (9) In this section—

criminal activity means the commission of a relevant offence under the Criminal Code, section 77.

electronic address includes an email address and a mobile phone number.

electronic means includes by email, multimedia message and SMS message.

prescribed way, for giving an approved form to a person, means—

- (a) delivering the form to the person personally; or
- (b) sending the form by electronic means to the electronic address nominated by the person to a police officer; or
- (c) sending the form by post or certified mail to the person at the last known or usual place of residence or business of the person or the last known or usual postal address of the person.

recognised offender includes a person who a police officer reasonably suspects is a recognised offender.

Example of when a police officer might reasonably suspect a person is a recognised offender—

A police officer reasonably suspects a person has been convicted of an indictable offence. The police officer is unable to confirm the nature of the indictable offence, or whether the conviction is spent, due to the unavailability of the person's complete criminal history or the application of the *Criminal Law (Rehabilitation of Offenders) Act 1986*. However, the police officer reasonably suspects the person is a recognised offender.

SMS message means a text message sent using the mobile phone service known as the short messaging service.

53BAD Effect of official warning for consorting

- (1) An official warning for consorting given in relation to a stated person who is a recognised

[s 316]

offender has effect until the stated person stops being a recognised offender.

- (2) However, if an official warning for consorting is given orally, and the warning is not confirmed under section 53BAC(5), the official warning stops having effect 72 hours after it is given.
- (3) Also, if an official warning for consorting is given in relation to a stated person who is not a recognised offender, the official warning stops having effect 24 hours after it is given.
- (4) A person does not commit an offence against section 791 if—
 - (a) the person was required to do something under section 53BAC(2); and
 - (b) the court is not satisfied the police officer, at the time of making the requirement, had the suspicion mentioned in section 53BAC(1).

53BAE Prevention of consorting with recognised offender

- (1) This section applies if—
 - (a) a police officer has given a person at a place an official warning for consorting; and
 - (b) the police officer reasonably suspects the person is consorting at the place with the person stated in the official warning.
- (2) The police officer may require the person to leave the place and not return or be within the place within a stated reasonable time of not more than 24 hours.

Note—

Failure to comply with a requirement given under this subsection is an offence against section 791.

- (3) However, subsection (2) does not apply if

requiring the person to leave the place may endanger the safety of the person or someone else.

Example of requirement to leave place that may endanger safety—

a requirement for a person to leave a vehicle in which recognised offenders are passengers in circumstances in which the person has no access to other transport

- (4) A person does not commit an offence against section 791 if—
- (a) the person was required to leave a place under subsection (2); and
 - (b) the court is not satisfied the police officer, at the time of making the requirement, had the power under subsection (1) to make the requirement.

317 Amendment of s 60 (Stopping vehicles for prescribed purposes)

Section 60(3)—

insert—

- (j) to give the person any of the following under the *Peace and Good Behaviour Act 1982*—
 - (i) a public safety order;
 - (ii) a restricted premises order;
 - (iii) a fortification removal order;
- (k) to give a person, under section 53BAC, an official warning for consorting.

318 Omission of ch 4A (Motor vehicle forfeiture for criminal organisation offences)

Chapter 4A—

omit.

[s 319]

319 Amendment of s 150 (Search warrant application)

(1) Section 150(1)(c), ‘, 4A’—

omit.

(2) Section 150(1)—

insert—

(e) if the place is premises at which a senior police officer reasonably believes 1 or more disorderly activities have taken place and are likely to take place again—to find prohibited items at the place.

(3) Section 150(3)—

insert—

(e) a prohibited item.

(4) Section 150(5)(b)—

insert—

(ia) for an application relating to premises at which a senior police officer reasonably believes 1 or more disorderly activities have taken place and are likely to take place again—the premises; or

(5) Section 150(5)(b)(i) to (ii)—

renumber as section 150(5)(b)(i) to (iii).

320 Replacement of s 151 (Issue of search warrant)

Section 151—

omit, insert—

151 Issue of search warrant

The issuer may issue a search warrant only if satisfied—

-
- (a) there are reasonable grounds for suspecting the evidence or property mentioned in section 150(1)(a), (b), (c) or (d) is—
 - (i) at the place; or
 - (ii) likely to be taken to the place within the next 72 hours; or
 - (b) there are reasonable grounds for believing the prohibited items mentioned in section 150(1)(e) are—
 - (i) at the place; or
 - (ii) likely to be taken to the place within the next 72 hours.

321 Amendment of s 156 (What search warrant must state)

- (1) Section 156(1)(b)(iv), ‘, 4A’—

omit.

- (2) Section 156(1)(b)(v), ‘and’—

omit, insert—

or

- (3) Section 156(1)(b)—

insert—

- (vi) premises at which a senior police officer reasonably believes 1 or more disorderly activities have taken place and are likely to take place again—brief details of the disorderly activities; and

322 Amendment of s 686 (Application of pt 3)

- (1) Section 686(2)(a), ‘, 4A’—

omit.

- (2) Section 686(2)—

[s 323]

insert—

- (h) a prohibited item seized from restricted premises under the *Peace and Good Behaviour Act 1982*, section 49; or
- (i) a prohibited item seized from premises the subject of a search warrant applied for under section 150(1)(e) in exercise of powers under section 157(1)(h); or
- (j) fortification removed from fortified premises under the *Peace and Good Behaviour Act 1982*, section 65.

323 Amendment of s 740 (Public interest monitor)

Section 740(1)—

insert—

- (c) the giving of official warnings for consorting; and
- (d) the making of public safety orders by commissioned officers under the *Peace and Good Behaviour Act 1982*.

324 Amendment of s 742 (Monitor's functions)

Section 742(4)—

insert—

- (e) to gather statistical information about the use and effectiveness of official warnings for consorting;
- (f) to gather statistical information about the use and effectiveness of public safety orders made by commissioned officers under the *Peace and Good Behaviour Act 1982*.

325 Amendment of s 743 (Monitor's annual report)

Section 743—

insert—

- (3A) Also, a report relating to a year must include the following matters relating to official warnings for consorting—
- (a) the number of official warnings for consorting given during the year;
 - (b) the number of times the giving of an official warning for consorting led to a person committing an offence against section 790 or 791;
 - (c) the extent of compliance by the police service with chapter 2, part 6A;
 - (d) the use of official warnings for consorting generally.
- (3B) Also, a report relating to a year must include the following matters relating to public safety orders made by commissioned officers under the *Peace and Good Behaviour Act 1982*—
- (a) the number of public safety orders made by commissioned officers during the year;
 - (b) the extent of compliance by the police service with the *Peace and Good Behaviour Act 1982*, part 3, division 2;
 - (c) the use of public safety orders generally.
- (3C) The public interest monitor must, within the period mentioned in subsection (1), give to the Minister responsible for administering the *Peace and Good Behaviour Act 1982* and the Minister responsible for administering the Criminal Code, a copy of any part of a report relating to a year that relates to a matter mentioned in subsection (3A) or (3B).

[s 326]

326 Amendment of sch 2 (Relevant offences for controlled operations and surveillance device warrants)

Schedule 2, section 4—

insert—

- section 77B (Habitually consorting with recognised offenders)

327 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definition *criminal organisation*—

omit.

(2) Schedule 6—

insert—

consort see section 53BAA.

criminal organisation see the *Penalties and Sentences Act 1992*, section 161O.

disorderly activity see the *Peace and Good Behaviour Act 1982*, section 33.

fortification removal order means a fortification removal order under the *Peace and Good Behaviour Act 1982*.

offence of habitually consorting see section 53BAA.

official warning, for consorting, see section 53BAA.

prohibited item see the *Peace and Good Behaviour Act 1982*, section 33.

public safety order means a public safety order under the *Peace and Good Behaviour Act 1982*.

recognised offender—

- (a) generally— see the Criminal Code, section 77; and

(b) for chapter 2, part 6A—see section 53BAA.

restricted premises order means a restricted premises order under the *Peace and Good Behaviour Act 1982*.

stop and desist notice means a stop and desist notice under the *Peace and Good Behaviour Act 1982*.

(3) Schedule 6, definition *enforcement act*—
insert—

(q) the taking, under section 41A, of identifying particulars of a person;

(r) the giving, under section 53BAC, of an official warning for consorting;

(s) the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 31(2), 49(1) or 65(2);

(t) the seizing of a prohibited item under the *Peace and Good Behaviour Act 1982*, section 49(1)(c)(i) or the removal or modification of a fortification under the *Peace and Good Behaviour Act 1982*, section 65;

(u) the giving of a stop and desist notice.

Part 22

Amendment of Police Powers and Responsibilities Regulation 2012

328 Regulation amended

This part amends the *Police Powers and Responsibilities Regulation 2012*.

- (f) the apparent demographic category of the person.

52B Official warnings for consorting—Act, s 679(1)

The following information about an official warning for consorting given under section 53BAC of the Act to a person must be included in the register of enforcement acts—

- (a) the name of the person given the warning;
- (b) the reason the warning was given;
- (c) when the warning was given;
- (d) the location of the person when given the warning;
- (e) when and how the police officer gave the person the approved form confirming the official warning;
- (f) whether the giving of the official warning led to the person committing an offence against section 790 or 791 of the Act;
- (g) whether the person was required to leave a place under section 53BAE of the Act;
- (h) the apparent demographic category of the person.

52C Powers for public safety orders—Act, s 679(1)

The following information about the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 31(2) in relation to a person for whom a public safety order has been made must be included in the register of enforcement acts—

- (a) the name of the person;
- (b) when the public safety order for the person was made;

[s 329]

- (c) when the power was exercised;
- (d) the reason the power was exercised;
- (e) the location of the person when the power was exercised;
- (f) whether the exercise of the power led to the person committing an offence against section 790 or 791 of the Act;
- (g) the apparent demographic category of the person.

52D Powers for restricted premises orders—Act, s 679(1)

The following information about the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 49 in relation to restricted premises must be included in the register of enforcement acts—

- (a) when and where the restricted premises order was made;
- (b) when the restricted premises were entered;
- (c) the time spent at the restricted premises;
- (d) whether the exercise of the power led to a person committing an offence against section 790 or 791 of the Act;
- (e) if paragraph (d) applies—the name of the person and the nature of the offence.

52E Powers for fortification removal orders—Act, s 679(1)

The following information about the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 65(2) in relation to fortified premises must be included in the register of

enforcement acts—

- (a) when and where the fortification removal order was made;
- (b) when the fortified premises were entered;
- (c) the time spent at the fortified premises;
- (d) whether the exercise of the power led to a person committing an offence against section 790 or 791 of the Act;
- (e) if paragraph (d) applies—the name of the person and the nature of the offence.

52F Taking of prohibited items from restricted premises or fortifications from fortified premises—Act, s 679(1)

- (1) The following information about a prohibited item taken from restricted premises under the *Peace and Good Behaviour Act 1982*, section 49 (a *thing*) or a fortification taken from fortified premises under the *Peace and Good Behaviour Act 1982*, section 65 (also a *thing*) must be included in the register of enforcement acts—
 - (a) the name of the person from whom the thing was taken, if known;
 - (b) when and where the thing was taken;
 - (c) the reason the thing was taken;
 - (d) a description of the thing taken;
 - (e) information about the return, destruction or disposal of the thing.
- (2) In this section—

take, a fortification from fortified premises, means remove or modify the fortification.

[s 330]

52G Stop and desist notices—Act, s 679(1)

The following information about a stop and desist notice given to a person in relation to premises must be included in the register of enforcement acts—

- (a) the name of the person given the notice;
- (b) the reason the notice was given;
- (c) when the notice was given.

Part 23 Amendment of Police Service Administration Act 1990

330 Act amended

This part amends the *Police Service Administration Act 1990*.

331 Omission of pt 10, div 1, sdiv 1A (Disclosure of criminal histories relating to criminal organisations)

Part 10, division 1, subdivision 1A—
omit.

332 Amendment of pt 10, div 1, sdiv 2, hdg (Other criminal history disclosure provisions)

Part 10, division 1, subdivision 2, heading, ‘Other criminal’—
omit, insert—

Criminal

333 Amendment of s 10.2E (Relationship to other laws)

Section 10.2E(2), ‘an entity under subdivision 1A or’—
omit.

Part 24 Amendment of Racing Act 2002

334 Act amended

This part amends the *Racing Act 2002*.

335 Amendment of s 148 (Definitions for div 1)

(1) Section 148—

insert—

repealed section means section 212A(2), 224(4) or 225(4) as in force before the commencement of the *Racing Integrity Act 2016*, section 363.

(2) Section 148, definition *confidential information*, paragraph (c)—

omit, insert—

(c) whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation.

336 Amendment of s 149 (Offence to disclose confidential information or copy background document)

Section 149(4), from ‘whether’ to ‘corporation’—

omit, insert—

whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation

337 Amendment of sch 1 (Dictionary)

Schedule 1, definitions *criminal organisation*, *identified participant* and *unsuitable corporation—*

[s 338]

omit.

Part 25 Amendment of Racing Integrity Act 2016

338 Act amended

This part amends the *Racing Integrity Act 2016*.

339 Amendment of s 81 (Suitability of applicants for racing bookmaker's licence)

Section 81(2), note—

omit.

340 Amendment of s 83 (Other matters about suitability)

Section 83—

insert—

- (2) However, the commission may not have regard to criminal intelligence given by the police commissioner to the commission under section 98A when deciding the matters to which sections 81 and 82 relate.

341 Amendment of s 86 (Conditions for granting application)

Section 86(2)—

omit.

342 Omission of s 88 (Information about whether persons are identified participants in criminal organisations)

Section 88—

omit.

343 Amendment of s 89 (Criminal history reports for investigations)

(1) Section 89(1), after ‘history,’—

insert—

including whether the person is, or has been, the subject of a control order or registered corresponding control order,

(2) Section 89—

insert—

(4) A report under subsection (2) must, if the person is, or has been, the subject of a control order or registered corresponding control order—

(a) state the details of the order; or

(b) be accompanied by a copy of the order.

344 Amendment of s 91 (Decision on application)

Section 91(3)—

omit.

345 Amendment of s 96 (Investigations into suitability of licence holder)

(1) Section 96(2), ‘Subject to subsection (3), the’—

omit, insert—

The

(2) Section 96(3) to (5)—

omit.

346 Amendment of s 97 (Investigation into suitability of associate of licence holder)

(1) Section 97(2), ‘Subject to subsection (3), the’—

[s 347]

omit, insert—

The

- (2) Section 97(3) to (5)—

omit.

347 Amendment of s 98 (Criminal history report for investigation)

- (1) Section 98(1), after ‘history,’—

insert—

including whether the person is, or has been, the subject of a control order or registered corresponding control order,

- (2) Section 98—

insert—

- (4) A report under subsection (2) must, if the person is, or has been, the subject of a control order or registered corresponding control order—
- (a) state the details of the order; or
 - (b) be accompanied by a copy of the order.

348 Insertion of new s 98A

After section 98—

insert—

98A Exchange of information

- (1) The commission may enter into an arrangement (an *information-sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging information—
- (a) held by the commission or the relevant agency; or

-
- (b) to which the commission or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
- (a) the commission perform the commission's functions under this Act; or
- (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the commission and the relevant agency are, despite another Act or law, authorised to—
- (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
- (b) disclose information to the other party.
- (4) The commission may use criminal intelligence given to the commission by the police commissioner under an information-sharing arrangement only for monitoring compliance with this Act.
- (5) In this section—
- information** does not include information given to the commission or a relevant agency, or to which the commission or relevant agency has access, under the *Crime and Corruption Act 2001*.
- relevant agency** means the following—
- (a) the police commissioner;
- (b) the chief executive of a department;
- (c) a local government;
- (d) a person prescribed by regulation.

349 Amendment of s 101 (Grounds for cancellation)

- (1) Section 101(1)(f)—

[s 350]

omit.

(2) Section 101—

insert—

(3) Criminal intelligence given by the police commissioner to the commission under section 98A can not be the basis of the ground for the cancellation of a racing bookmaker's licence.

350 Omission of s 102 (Immediate cancellation of racing bookmaker's licence)

Section 102—

omit.

351 Amendment of s 103 (Show cause notice)

(1) Section 103(3)—

omit.

(2) Section 103(4) and (5)—

renumber as section 103(3) and (4).

352 Amendment of s 106 (Cancellation)

(1) Section 106(2) and (6)—

omit.

(2) Section 106(3) to (5)—

renumber as section 106(2) to (4).

353 Amendment of s 107 (Return of cancelled racing bookmaker's licence)

Section 107(1), '102(4)(a) or 106(4)(a)'—

omit, insert—

106(3)(a)

354 Amendment of s 108 (Censuring licence holder)

(1) Section 108(2)—

omit.

(2) Section 108(3) and (4)—

renumber as section 108(2) and (3).

355 Omission of ch 4, pt 2, div 7 (Matters relating to review of decisions)

Chapter 4, part 2, division 7—

omit.

356 Amendment of s 211 (Definitions for division)

(1) Section 211—

insert—

repealed section means section 88(2), 96(4) or 97(4) as in force before the commencement.

(2) Section 211, definition *confidential information*, paragraph (c)—

omit, insert—

(c) whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation.

357 Amendment of s 212 (Offence to disclose confidential information or copy background document)

(1) Section 212(3)(a), after ‘by the person’—

insert—

, unless the information or background information is criminal intelligence

[s 358]

- (2) Section 212(4), from ‘whether’ to ‘corporation’—
omit, insert—

whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation

358 Replacement of ch 8 hdg

Chapter 8, heading—

omit, insert—

Chapter 8 Transitional provisions for Act No. 12 of 2016

359 Insertion of new ch 9

After section 293—

insert—

Chapter 9 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

294 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the commission had not finally decided an application for the grant of a racing

bookmaker's licence.

- (2) The commission must decide the application under this Act as in force after the commencement.

295 Show cause process not finally decided

- (1) This section applies if—
 - (a) the commission had given a show cause notice to a racing bookmaker under section 103(1); and
 - (b) immediately before the commencement, the commission had not finally dealt with matters relating to the show cause notice under section 105 or 106 (the *show cause process*).
- (2) The show cause process must continue under this Act as in force after the commencement.

296 Proceedings not finally decided

- (1) This section applies if, immediately before the commencement, the following proceedings had been started but not finally dealt with—
 - (a) a proceeding before QCAT for a review of a relevant decision;
 - (b) a proceeding before the Supreme Court about a relevant decision.
- (2) The proceeding is discontinued and the matter is remitted to the commission for the commission to decide again under this Act as in force after the commencement.
- (3) QCAT or the Supreme Court must return to the police commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.

[s 359]

- (4) For subsection (1), a proceeding had not been finally dealt with if—
- (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.

- (5) In this section—

criminal intelligence means criminal intelligence within the meaning of repealed section 114(6).

relevant decision means a decision—

- (a) for which a review notice mentioned in section 245(6) was given to a person; and
- (b) made because the person was not a suitable person to hold a racing bookmaker's licence because the person—
 - (i) was identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a participant in a criminal organisation; or
 - (ii) had a business associate or executive associate who was—
 - (A) if the associate was an individual—identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a participant in a criminal organisation; or
 - (B) if the associate was a corporation—identified by the police commissioner under

repealed section 88(2), 96(4) or
97(4) as a criminal organisation;
or

(iii) was identified by the police
commissioner under repealed section
88(2), 96(4) or 97(4) as an unsuitable
corporation.

repealed, in relation to a provision of this Act,
means the provision as in force immediately
before the commencement.

360 Amendment of sch 1 (Dictionary)

(1) Schedule 1, definitions *commission decision*, *criminal organisation*, *identified participant* and *unsuitable corporation*—

omit.

(2) Schedule 1—

insert—

control order see the *Penalties and Sentences Act 1992*, section 161N.

criminal intelligence see the Criminal Code, section 86(3).

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

repealed section, for chapter 6, part 1, division 1, see section 211.

[s 361]

Part 26 **Amendment of Second-hand Dealers and Pawnbrokers Act 2003**

361 Act amended

This part amends the *Second-hand Dealers and Pawnbrokers Act 2003*.

362 Amendment of s 7 (Suitability of applicants and licensees)

(1) Section 7(1)(e)—

omit, insert—

(e) is subject to a relevant control order.

(2) Section 7—

insert—

(1A) Without limiting subsection (1), a person is not a suitable person to hold a licence if the chief executive decides the person is not suitable because the person, or an associate of the person—

(a) is subject to a control order or registered corresponding control order, other than a relevant control order; or

(b) has been convicted of an offence against—

(i) the *Peace and Good Behaviour Act 1982*, section 32, 54 or 75; or

(ii) the *Penalties and Sentences Act 1992*, section 161ZI.

(1B) The chief executive, when deciding whether a person is a suitable person to hold a licence, may not have regard to criminal intelligence given by the commissioner of the police service to the chief

executive under section 111.

- (3) Section 7(1A) to (3)—
renumber as section 7(2) to (5).

363 Amendment of s 8 (Investigations about suitability of applicants and licensees)

- (1) Section 8(2), ‘must’—
omit, insert—
may
- (2) Section 8(3)—
omit.
- (3) Section 8(4)—
omit, insert—
(4) If the chief executive asks the commissioner for a report under subsection (2), the commissioner must give the report to the chief executive.
- (4) Section 8(7)—
omit, insert—
(7) If the person is, or has been, subject to a control order or registered corresponding control order, the report must—
(a) state the details of the order; or
(b) be accompanied by a copy of the order.
- (5) Section 8(4) to (7)—
renumber as section 8(3) to (6).

364 Replacement of s 9 (Confidentiality of report or information provided by commissioner of police service)

Section 9—
omit, insert—

9 Notice of change in criminal history

- (1) This section applies if—
 - (a) the commissioner of the police service reasonably suspects a person is—
 - (i) an applicant or licensee; or
 - (ii) an associate of an applicant or licensee; and
 - (b) the person's criminal history changes.
- (2) The commissioner may give the chief executive written notice that the person's criminal history has changed.
- (3) The notice must—
 - (a) state the following details—
 - (i) the person's name and any other name the commissioner believes the person may use or may have used;
 - (ii) the person's date and place of birth;
 - (iii) a brief description of the nature of the offence giving rise to the conviction or charge to which the change relates; and
 - (b) if the change includes the person becoming subject to a control order or registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.
- (4) The chief executive may confirm the commissioner's suspicions under subsection (1)(a).
- (5) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.

(6) In this section—

criminal history, in relation to a person, includes a charge of an offence laid against a person that has not been dismissed.

offence includes alleged offence.

9A Use of information obtained under s 8 or 9

(1) This section applies to the chief executive in considering information about a person obtained under section 8 or 9.

(2) Information about the following may be used only for making a decision as to whether an applicant or licensee is, or continues to be, a suitable person to hold a licence—

(a) a conviction of the person;

(b) if the person is subject to a control order or registered corresponding control order—the control order.

(3) Information about a charge against the person may not be relied on as a basis for making a decision as to whether an applicant or licensee is, or continues to be, a suitable person to hold a licence.

365 Amendment of s 12 (Decision on application for a licence)

Section 12(5)—

omit.

366 Amendment of s 15 (Decision on application for renewal or restoration of a licence)

Section 15(5)—

omit.

[s 367]

367 Amendment of s 19 (Grounds for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence)

Section 19(2)—

omit, insert—

- (2) However, for subsection (1)(d) and section 20, it is not a ground for suspending, cancelling, refusing to renew or restore, or imposing a condition on a licence that the licensee, or an associate of the licensee—
- (a) is convicted of a disqualifying offence for which a conviction is recorded; or
- (b) becomes subject to a relevant control order.

Notes—

- 1 See section 15 for refusals to renew or restore licences in the circumstances mentioned in this subsection.
- 2 See section 21A for cancellation of licences in the circumstances mentioned in this subsection.

368 Omission of s 20A (Immediate cancellation and return of licence)

Section 20A—

omit.

369 Amendment of s 21 (Return of licence)

- (1) Section 21(1), ‘(other than under section 20A)’—

omit.

- (2) Section 21(1), penalty, ‘100 penalty units’—

omit, insert—

20 penalty units

370 Insertion of new s 21A

After section 21—

insert—

21A Automatic cancellation

- (1) A licensee's licence is cancelled if the licensee, or an associate of the licensee—
 - (a) is convicted of a disqualifying offence for which a conviction is recorded; or
 - (b) becomes subject to a relevant control order.
- (2) A person whose licence is cancelled under subsection (1) must return the licence to the chief executive within 14 days after the happening of the event mentioned in subsection (1).

Maximum penalty for subsection (2)—20 penalty units.

371 Amendment of s 27 (Change of licensee's home address)

- (1) Section 27, heading, 'home'—

omit.

- (2) Section 27(1)—

omit, insert—

- (1) If a licensee changes the licensee's home address, or an address (the **register address**) mentioned in section 26(2)(a) or (b), the licensee must, within 7 days after the change, give the chief executive—
 - (a) for a change of home address—notice of the change; or
 - (b) for a change of register address—
 - (i) signed notice of the change; and
 - (ii) the licensee's licence.

Maximum penalty—50 penalty units.

[s 372]

- (3) Section 27(2), ‘subsection (1)(b)’—
omit, insert—
subsection (1)(b)(ii)

372 Omission of ss 107A and 107B

Sections 107A and 107B—
omit.

373 Insertion of new ss 111 and 112

Part 7—
insert—

111 Exchange of information

- (1) The chief executive may enter into an arrangement (an ***information-sharing arrangement***) with a relevant agency for the purposes of sharing or exchanging information—
- (a) held by the chief executive or the relevant agency; or
 - (b) to which the chief executive or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
- (a) the chief executive perform the chief executive’s functions under this Act; or
 - (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—
- (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and

-
- (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence, given to the chief executive by the commissioner of the police service under an information-sharing arrangement, only for monitoring compliance with this Act.
- (5) In this section—
- information* does not include information given to the chief executive or a relevant agency, or to which the chief executive or relevant agency has access, under the *Crime and Corruption Act 2001*.
- relevant agency* means the following—
- (a) the commissioner of the police service;
 - (b) the chief executive of a department;
 - (c) a local government;
 - (d) a person prescribed by regulation.

112 Confidentiality

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act.
- (2) The person must not make a record of the information or disclose the information to another person, other than under subsection (4).
- Maximum penalty—35 penalty units.
- (3) Without limiting subsection (1), a person gains confidential information through involvement in the administration of this Act if the person gains the information because of being, or an opportunity given by being—
- (a) the chief executive; or
 - (b) a public service employee employed in the department; or

[s 373]

- (c) a person engaged by the chief executive for this Act.
- (4) A person may make a record of confidential information or disclose it to another person—
 - (a) for this Act; or
 - (b) to discharge a function under another law; or
 - (c) for a proceeding in a court or QCAT; or
 - (d) if authorised by a court or QCAT in the interests of justice; or
 - (e) if required or permitted by law; or
 - (f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates.
- (5) The chief executive must destroy the following as soon as practicable after it is no longer needed for the purpose for which it was requested or given—
 - (a) a criminal history report about a person;
 - (b) a copy of a control order or registered corresponding control order accompanying a criminal history report about a person;
 - (c) a notice given under section 9(2) about a person.
- (6) The *Public Records Act 2002* does not apply to the documents mentioned in subsection (5).
- (7) In this section—
 - confidential information***—
 - (a) includes information about a person's affairs; but
 - (b) does not include statistical or other information that could not reasonably be

expected to result in the identification of the person to whom the information relates.

374 Insertion of new pt 9, div 5

Part 9—

insert—

Division 5 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

140 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant, renewal or restoration of a licence.
- (2) The chief executive must decide the application under this Act as in force after the commencement.

141 Proceedings not finally decided

- (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—
 - (a) a proceeding before QCAT for a review of a decision mentioned in repealed section 107A(1);
 - (b) a proceeding before the Supreme Court about a decision mentioned in repealed section 107A(1).
- (2) The proceeding is discontinued and the matter is remitted to the chief executive for the chief

[s 375]

executive to decide again under this Act as in force after the commencement.

- (3) QCAT or the Supreme Court must return to the commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
 - (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.

- (5) In this section—

criminal intelligence means criminal intelligence within the meaning of repealed section 107A(6).

repealed, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

375 Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)

- (1) Schedule 1, before item 1—

insert—

1A chapter 9A (Consorting)

1B section 76 (Recruiting person to become participant in criminal organisation)

- (2) Schedule 1, item 8—

omit.

- (3) Schedule 1, items 1A to 12—
renumber as schedule 1, items 1 to 13.

376 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *criminal organisation* and *identified participant*—
omit.
- (2) Schedule 3—
insert—

control order see the *Penalties and Sentences Act 1992*, section 161N.

criminal intelligence see the Criminal Code, section 86(3).

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

relevant control order, in relation to a licence, means a control order or registered corresponding control order that restricts the person to whom the order applies from carrying on a business, engaging in an occupation or performing an activity that requires the licence.

- (3) Schedule 3, definition *disqualifying offence*—
insert—

(ba) an offence that is—

- (i) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and
- (ii) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q; or

[s 377]

- (4) Schedule 3, definition *disqualifying offence*, paragraphs (ba) and (c)—

renumber as schedule 3, definition *disqualifying offence*, paragraphs (c) and (d).

Part 27 **Amendment of Security Providers Act 1993**

377 Act amended

This part amends the *Security Providers Act 1993*.

378 Amendment of s 11 (Entitlement to licences—individuals)

- (1) Section 11(3)—

omit, insert—

- (3) In deciding whether a person is an appropriate person to hold a licence, the chief executive—

- (a) may only consider the matters mentioned in subsections (4) and (5); and
- (b) may not have regard to criminal intelligence given to the chief executive by the Commissioner under section 48.

- (2) Section 11(4)(b)—

omit.

- (3) Section 11(4)(f) and (g)—

omit, insert—

- (f) any other information indicating—
 - (i) the person is a risk to public safety; or
 - (ii) the holding of the licence by the person would be contrary to the public interest.

-
- (4) Section 11(4)(c) to (f)—
renumber as section 11(4)(b) to (e).
- (5) Section 11(5)—
omit, insert—
- (5) A person is not an appropriate person to hold a licence if the person—
- (a) has, within 10 years of applying for the licence, been convicted of a disqualifying offence for which a conviction was recorded; or
- (b) is subject to a relevant control order.
- (6) Section 11(6)—
omit.
- (7) Section 11(7)—
renumber as section 11(6).

379 Amendment of s 12 (Inquiries about person's appropriateness to hold licence)

- (1) Section 12(2)—
omit.
- (2) Section 12(3), 'The chief executive may also'—
omit, insert—
- Without limiting subsection (1), the chief executive may
- (3) Section 12(4)—
omit, insert—
- (4) Subject to subsection (4), the Commissioner must comply with a request made under subsection (2).
- (4) Section 12—
insert—

[s 380]

(5A) If the person is, or has been, subject to a control order or registered corresponding control order, the report must—

- (a) state the details of the order; or
- (b) be accompanied by a copy of the order.

(5) Section 12(3) to (5A)—

renumber as section 12(2) to (5).

380 Amendment of s 12AA (Costs of criminal history report)

Section 12AA(1), ‘section 12(3)’—

omit, insert—

section 12(2)

381 Amendment of s 12A (Notice of change in criminal history)

Section 12A(3)—

omit, insert—

(3) The notice must—

(a) state the following details—

- (i) the person’s name and any other name the Commissioner believes the person may use or may have used;
- (ii) the person’s date and place of birth;
- (iii) a brief description of the nature of the offence giving rise to the conviction or charge to which the change relates; and

(b) if the change includes the person becoming subject to a control order or registered corresponding control order—

- (i) state the details of the order; or

(ii) be accompanied by a copy of the order.

382 Omission of s 12B (Commissioner may give investigative information)

Section 12B—

omit.

383 Amendment and renumbering of s 12C (Use of information obtained under s 12, 12A or 12B)

(1) Section 12C, heading, ‘s 12, 12A or 12B’—

omit, insert—

s 12 or 12A

(2) Section 12C(1), ‘section 12, 12A or 12B’—

omit, insert—

section 12 or 12A

(3) Section 12C(2)—

omit, insert—

(2) Information about the following may be used only for making a decision about whether the person is, or continues to be, an appropriate person to hold a licence—

(a) a conviction of the person;

(b) if the person is subject to a control order or registered corresponding control order—the control order.

(4) Section 12C(4)—

omit.

(5) Section 12C(8), from ‘, other than’ to ‘or 12B’—

omit, insert—

or 12A

[s 384]

(6) Section 12C—

insert—

(9) The *Public Records Act 2002* does not apply to information mentioned in subsection (7).

(7) Section 12C(5) to (9)—

renumber as section 12C(4) to (8).

(8) Section 12C—

renumber as section 12B.

384 Amendment of s 13 (Entitlement to licences—corporations or firms)

(1) Section 13(3A)—

omit, insert—

(3A) For subsection (3)(b), in deciding whether a corporation is an appropriate person to hold a security firm licence, the chief executive—

(a) must consider the following matters—

(i) whether the corporation has been convicted of a disqualifying offence for which a conviction has not been recorded and that has not been quashed or set aside by a court;

(ii) any other information indicating—

(A) the corporation is a risk to public safety; or

(B) the holding of the licence by the corporation would be contrary to the public interest; but

(b) may not have regard to criminal intelligence given to the chief executive by the Commissioner under section 48.

(2) Section 13(5), '(6), 12 and 12C'—

omit, insert—

(5), 12 and 12B

(3) Section 13(6)—

omit, insert—

(6) A corporation is not an appropriate person to hold a security firm licence if the corporation—

(a) has, within 10 years of applying for the licence, been convicted of a disqualifying offence for which a conviction has been recorded; or

(b) is subject to a relevant control order.

385 Amendment of s 14 (Decision on application)

(1) Section 14(7)—

omit.

(2) Section 14(8)—

renumber as section 14(7).

386 Amendment of s 21 (Grounds for suspension, cancellation or refusal to renew)

Section 21(3)—

omit, insert—

(3) Despite subsection (1)(g), the following are not grounds for cancellation of a licence under section 22—

(a) the licensee, or another person required to be an appropriate person in relation to the licence, is convicted of a disqualifying offence;

(b) the licensee, or another person required to be an appropriate person in relation to the

[s 387]

licence, becomes subject to a relevant control order.

Note—

See section 24 for cancellation of a licence in the circumstances mentioned in this subsection.

387 Amendment of s 22 (Procedure for suspension, cancellation or refusal to renew)

(1) Section 22(3)—

omit.

(2) Section 22(4)(a), note—

omit.

(3) Section 22(6)—

omit.

(4) Section 22(4) to (7)—

renumber as section 22(3) to (5).

388 Omission of s 23A (Cancellation of licence—identified participant in criminal organisation)

Section 23A—

omit.

389 Replacement of s 24 (Automatic cancellation on conviction)

Section 24—

omit, insert—

24 Automatic cancellation

(1) A licensee's licence is cancelled if the licensee, or another person required to be an appropriate person in relation to the licence—

-
- (a) is convicted of a disqualifying offence for which a conviction is recorded; or
 - (b) becomes subject to a relevant control order.
- (2) A person whose licence is cancelled under subsection (1) must return the licence to the chief executive within 14 days after the happening of the event mentioned in subsection (1).

Maximum penalty for subsection (2)—20 penalty units.

390 Omission of ss 26A and 26B

Sections 26A and 26B—

omit.

391 Replacement of s 48 (Confidentiality of information)

Section 48—

omit, insert—

48 Exchange of information

- (1) The chief executive may enter into an arrangement (an ***information-sharing arrangement***) with a relevant agency for the purposes of sharing or exchanging information—
- (a) held by the chief executive or the relevant agency; or
 - (b) to which the chief executive or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
- (a) the chief executive perform the chief executive's functions under this Act; or
 - (b) the relevant agency perform its functions.

[s 391]

- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
 - (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence, given to the chief executive by the Commissioner under an information-sharing arrangement, only for monitoring compliance with this Act.
- (5) In this section—

information does not include information given to the chief executive or a relevant agency, or to which the chief executive or relevant agency has access, under the *Crime and Corruption Act 2001*.

relevant agency means the following—

 - (a) the Commissioner;
 - (b) the chief executive of a department;
 - (c) a local government;
 - (d) a person prescribed by regulation.

48A Confidentiality

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act.
- (2) The person must not make a record of the information or disclose the information to another person, other than under subsection (4).

Maximum penalty—35 penalty units.
- (3) Without limiting subsection (1), a person gains confidential information through involvement in

-
- the administration of this Act if the person gains the information because of being, or an opportunity given by being—
- (a) the chief executive; or
 - (b) a public service employee employed in the department; or
 - (c) a person engaged by the chief executive for this Act.
- (4) A person may make a record of confidential information or disclose it to another person—
- (a) for this Act; or
 - (b) to discharge a function under another law; or
 - (c) for a proceeding in a court or QCAT; or
 - (d) if authorised by a court or QCAT in the interests of justice; or
 - (e) if required or permitted by law; or
 - (f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates.
- (5) In this section—
- confidential information***—
- (a) includes information about a person's affairs; but
 - (b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

392 Insertion of new pt 10

After section 68—

insert—

Part 10 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

69 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant or renewal of a licence.
- (2) The chief executive must decide the application under this Act as in force after the commencement.

70 Show cause process not finally decided

- (1) This section applies if—
 - (a) the chief executive had given a show cause notice to a licensee under section 22; and
 - (b) immediately before the commencement, the chief executive had not finally dealt with matters relating to the show cause notice under section 22 (the *show cause process*).
- (2) The show cause process must continue under this Act as in force after the commencement.

71 Proceedings not finally decided

- (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—

- (a) a proceeding before QCAT for a review of a decision mentioned in repealed section 26A(1);
 - (b) a proceeding before the Supreme Court about a decision mentioned in repealed section 26A(1).
- (2) The proceeding is discontinued and the matter is remitted to the chief executive for the chief executive to decide again under this Act as in force after the commencement.
- (3) QCAT or the Supreme Court must return to the commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
- (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.
- (5) In this section—

criminal intelligence means criminal intelligence within the meaning of schedule 2, repealed definition *criminal intelligence*.

repealed, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

[s 393]

393 Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)

- (1) Schedule 1, item 1, ‘Unlawful assemblies—breaches’—
omit, insert—

Breaches

- (2) Schedule 1, item 16—
omit.

- (3) Schedule 1—
insert—

1A chapter 9A (Consorting)

- (4) Schedule 1, items 1A to 21—
renumber as schedule 1, items 2 to 23.

394 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *criminal intelligence*, *criminal organisation*, *identified participant* and *investigative information*—

omit.

- (2) Schedule 2—
insert—

control order see the *Penalties and Sentences Act 1992*, section 161N.

criminal intelligence see the Criminal Code, section 86(3).

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

relevant control order, in relation to a licence, means a control order or registered corresponding control order that restricts the person to whom the order applies from carrying on a business, engaging in an occupation or performing an

activity that requires the licence.

- (3) Schedule 2, definition *disqualifying offence*, paragraph (a)—
insert—

(iia) that is—

- (A) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and
- (B) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q;
or

- (4) Schedule 2, definition *disqualifying offence*, paragraph (a)(iia) to (v)—
renumber as schedule 2, definition *disqualifying offence*, paragraph (a)(iv) to (vi).

Part 28 Amendment of State Penalties Enforcement Regulation 2014

395 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

396 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

- (1) Schedule 1, entry for the *Motor Dealers and Chattel Auctioneers Act 2014*, entries for sections 63(5) and 182(5)—
omit.
- (2) Schedule 1, entry for the *Second-hand Dealers and Pawnbrokers Act 2003*, entry for section 21(1), column 2, '5'—

[s 397]

omit, insert—

2

- (3) Schedule 1, entry for the *Second-hand Dealers and Pawnbrokers Act 2003—*

insert—

s 21A(2)

2

- (4) Schedule 1, entry for *Tattoo Parlours Act 2013—*

insert—

s 34A(2)

2

-

- (5) Schedule 1, entry for *Tattoo Parlours Act 2013*, entry for section 11(6), 's 11(6)'—

omit, insert—

s 11(11)

- (6) Schedule 1, entry for *Tattoo Parlours Act 2013*, authorised person for service of infringement notices entry, '*Tattoo Parlours Act 2013*'—

omit, insert—

Tattoo Industry Act 2013

- (7) Schedule 1, entry for *Tattoo Parlours Act 2013*, heading, 'Parlours'—

omit, insert—

Industry

Part 29

Amendment of Summary Offences Act 2005

397 Act amended

This part amends the *Summary Offences Act 2005*.

398 Insertion of new pt 2, div 1B

Part 2—

insert—

Division 1B Offence about wearing or carrying particular clothing, jewellery or accessories in public places

10B Objects of division

The objects of this division are, as far as practicable—

- (a) to ensure members of the public may lawfully use and pass through public places without experiencing fear or intimidation because others are visibly wearing or carrying prohibited items; and
- (b) to reduce the likelihood of public disorder or acts of violence in public places.

10C Wearing or carrying prohibited item in a public place

- (1) A person in a public place must not wear or carry a prohibited item so that the item can be seen.

Maximum penalty—

- (a) for a first offence—40 penalty units or 6 months imprisonment; or
- (b) for a second offence—60 penalty units or 9 months imprisonment; or
- (c) for a third or later offence—100 penalty units or 12 months imprisonment.

[s 398]

- (2) A person who is in or on a vehicle that is in a public place must not wear or carry a prohibited item so that the item can be seen from the public place.

Maximum penalty—

- (a) for a first offence—40 penalty units or 6 months imprisonment; or
- (b) for a second offence—60 penalty units or 9 months imprisonment; or
- (c) for a third or later offence—100 penalty units or 12 months imprisonment.
- (3) In this section—

prohibited item see the *Liquor Act 1992*, section 173EA.

10D Defence for s 10C

For section 10C(1) and (2), it is a defence for the person to prove—

- (a) the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, educational, legal or law enforcement purpose; and
- (b) the person's conduct was, in the circumstances, reasonable for that purpose.

10E Forfeiture of prohibited item to which offence relates

On a person being convicted of an offence against section 10C, a prohibited item to which the offence relates that is lawfully in the possession of the Queensland Police Service is forfeited to the State.

Note—

Under the *Police Powers and Responsibilities Act 2000*, a police officer has the power to seize all or part of a thing that may provide evidence of the commission of an offence in particular circumstances. See, for example, sections 29(2) and 31(5) of that Act.

Part 30 Amendment of Tattoo Parlours Act 2013

Division 1 Preliminary

399 Act amended

This part amends the *Tattoo Parlours Act 2013*.

Division 2 Amendments commencing on assent

400 Amendment of s 11 (Licence applications)

Section 11(4)(c)—

omit.

401 Amendment of s 18 (Term of licence)

Section 18(3), note—

omit.

402 Amendment of s 33 (Suspension of licence)

Section 33(1), note—

omit.

[s 403]

403 Amendment of s 34 (Cancellation of licence)

Section 34(1), note—

omit.

404 Amendment of s 41 (Application for exhibition permit)

Section 41(4)(c)—

omit.

405 Amendment of s 42 (Decision about application for exhibition permit)

Section 42(3)—

omit, insert—

- (3) The chief executive may decide not to grant the permit if the chief executive is satisfied the application for the permit was not properly made.

406 Amendment of s 44 (Application for visiting tattooist permit)

Section 44(3)—

omit, insert—

- (3) An application for a visiting tattooist permit may not be made by an individual who is under 18 years.

407 Amendment of s 45 (Decision about application for visiting tattooist permit)

Section 45(3)—

omit, insert—

- (3) The chief executive may decide not to grant the permit if the chief executive is satisfied the application was not properly made.

408 Amendment of s 56 (Review by QCAT of particular decisions of chief executive)

Section 56(1), ‘, other than a controlled person,’—
omit.

409 Amendment of sch 1 (Dictionary)

Schedule 1, definition *controlled person*—
omit.

Division 3 Amendments commencing 3 months after assent

410 Amendment of s 1 (Short title)

Section 1, ‘*Tattoo Parlours Act 2013*’—
omit, insert—
Tattoo Industry Act 2013

411 Replacement of ss 3 and 4

Sections 3 and 4—
omit, insert—

3 Main purpose of Act

The main purpose of this Act is to regulate the body art tattooing industry to minimise the risk of criminal activity in the industry.

4 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

[s 412]

412 Amendment of s 6 (Body art tattooing businesses to be licensed)

Section 6(4)—

insert—

- (d) otherwise in circumstances prescribed by regulation.

413 Amendment of s 7 (Body art tattooists to be licensed)

Section 7(3)—

insert—

- (c) otherwise in circumstances prescribed by regulation.

414 Amendment of s 11 (Licence applications)

- (1) Section 11(5)(d) and example—

omit, insert—

- (d) be accompanied by evidence of the applicant's identity that is satisfactory to the chief executive; and

Example for paragraph (d)—

The chief executive may adopt a system under which—

- (a) points are assigned to the applicant for producing particular evidence of identity; and
- (b) the applicant is required to achieve a total number of points stated by the chief executive.

- (2) Section 11(5)(e) and (f)—

omit.

- (3) Section 11(5)(g) and (h)—

renumber as section 11(5)(e) and (f).

- (4) Section 11—

insert—

-
- (5A) If, before or when the application is made, the chief executive requires the payment of costs under section 15A(1), the application must also be accompanied by the amount of the costs required to be paid.
- (5B) An application for a licence may be considered by the chief executive only if—
- (a) the commissioner holds the applicant's fingerprints and palm prints taken under section 35E; or
 - (b) the applicant consents to having the applicant's fingerprints and palm prints taken by the commissioner under section 35E.
- (5C) If a regulation prescribes a fee for taking an applicant's fingerprints under section 35E, the application must be accompanied by the fee.
- (5D) However, subsection (8) does not apply if the commissioner already holds the relevant person's fingerprints taken under section 35E.
- (5E) If an applicant's fingerprints are not taken under section 35E for the application, the chief executive must refund to the applicant any fee paid under subsection (8).
- (5) Section 11(5A) to (8)—
renumber as section 11(6) to (13).

415 Insertion of new ss 11A and 11B

Part 3, division 2—

insert—

11A Additional information required for applications for operator licences

- (1) In addition to the matters mentioned in section 11(5), an application for an operator licence

[s 415]

must—

- (a) for fixed premises—state the address of the fixed premises proposed to be licensed; and
- (b) for mobile premises—
 - (i) state a description of the mobile premises proposed to be licensed that includes the registration number if the premises are a vehicle that is required to be registered; and
 - (ii) state the address of a fixed premises at which records relating to the body art tattooing business proposed to be carried on at the mobile premises may be inspected; and
- (c) state the business name of the body art tattooing business carried on or proposed to be carried on at the proposed licensed premises; and
- (d) state the name and residential address of each staff member employed, or proposed to be employed, to work at the proposed licensed premises; and
- (e) if the business to which the application relates is owned or operated by or on behalf of a corporation—
 - (i) state the name and ACN or ARBN, if any, of the corporation and the names of the directors or members of its governing body; and
 - (ii) be accompanied by evidence in the approved form that the applicant has been nominated by the corporation to be the premises manager; and

-
- (f) if the business to which the application relates is owned or operated by or on behalf of a partnership—
 - (i) state the trading name of the partnership and the names of the partners, including any silent partners; and
 - (ii) be accompanied by evidence in the approved form that the applicant has been nominated by the partnership to be the premises manager; and
 - (g) if the business to which the application relates is owned or operated by or on behalf of a trust—
 - (i) state the name of each trustee; and
 - (ii) if a trustee is a corporation—state the information mentioned in paragraph (e)(i); and
 - (iii) be accompanied by evidence in the approved form that the applicant has been nominated by the trustees to be the premises manager.

11B Additional information required for applications for tattooist licences

In addition to the matters mentioned in section 11(5), an application for a tattooist licence must be accompanied by evidence in the approved form of previous, existing or impending employment as a body art tattooist.

416 Replacement of s 12 (Statement as to close associates of applicant for operator licence)

Section 12—

omit, insert—

12 Criteria for granting application

- (1) The chief executive may grant an application for a licence only if the chief executive is satisfied—
 - (a) the application is properly made; and
 - (b) the applicant is a fit and proper person to hold the licence; and
 - (c) it would not be contrary to the public interest for the licence to be granted.
- (2) In deciding whether the applicant is a fit and proper person to hold the licence, the chief executive must have regard to the following—
 - (a) the criminal history of the applicant;
 - (b) in dealings in which the person has been involved, whether the person has—
 - (i) shown dishonesty or lack of integrity; or
 - (ii) used harassing tactics;
 - (c) information about the person that indicates—
 - (i) the person is a risk to public safety; or
 - (ii) the holding of a licence by the person would be contrary to the public interest;
 - (d) whether the applicant is subject to an order under the *Public Health (Infection Control for Personal Appearance Services) Act 2003* made in connection with the carrying out of skin penetration procedures;
 - (e) whether the applicant holds, or has held, a licence, permit or other authority under an Act administered by a relevant Minister that has been suspended, cancelled or revoked;

- (f) whether the applicant is disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister;
 - (g) whether the person has taken advantage, as a debtor, of the laws of bankruptcy;
 - (h) anything else relevant to the person's suitability to hold the licence.
- (3) A person is not a fit and proper person to hold a licence if the person—
- (a) within 10 years before applying for the licence, has been convicted of a prescribed offence for which a conviction was recorded; or
 - (b) is subject to a relevant control order.
- (4) The chief executive may not have regard to criminal intelligence in deciding whether—
- (a) a person is a fit and proper person to hold a licence; or
 - (b) it would be contrary to the public interest for the licence to be granted.

12A Additional criteria for operator licences

Without limiting section 12(2), in deciding whether a person is a fit and proper person to hold an operator licence, the chief executive must also have regard to the following—

- (a) whether the applicant has been convicted of an offence against section 6(1) or (3) or 8(1);
- (b) for an application for a body art tattooing business owned or operated by or on behalf of a corporation—whether the corporation is the subject of a winding-up order or a

[s 417]

corporation for which a controller or administrator has been appointed;

- (c) whether the applicant is, or was at any time in the last 3 years, a director of or concerned in the management of an externally-administered body corporate under the Corporations Act other than the voluntary winding-up of the body corporate;
- (d) whether a closure order under section 47 is, or has been, in force in relation to the proposed licensed premises.

12B Additional criteria for tattooist licences

Without limiting section 12(2), in deciding whether a person is a fit and proper person to hold a tattooist licence, the chief executive must also have regard to whether the applicant has been convicted of an offence against section 7(1) or (2).

417 Amendment, relocation and renumbering of s 13 (Fingerprinting and palm printing of applicants)

- (1) Section 13(1) and (2), after ‘licence’—

insert—

, or the renewal of a licence,

- (2) Section 13—

relocate to part 3, division 6B, as inserted by this Act, and *renumber* as section 35E.

418 Amendment, relocation and renumbering of s 14 (Destruction of fingerprints and palm prints)

- (1) Section 14(1), (3) and (5), ‘section 13’—

omit, insert—

section 35E

(2) Section 14—

relocate to part 3, division 6B, as inserted by this Act, and
renumber as section 35F.

419 Replacement of ss 15 and 16

Sections 15 and 16—

omit, insert—

15 Inquiries about applicants, licensees and relevant persons

- (1) The chief executive may make inquiries about an applicant for a licence, a licensee or a relevant person for the applicant or licensee to assist in deciding—
 - (a) whether the applicant or licensee is, or continues to be, a fit and proper person to hold the licence; and
 - (b) whether it is contrary to the public interest for the licence to be granted to the applicant or held by the licensee.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner to give the chief executive the following written information about the applicant, licensee or relevant person—
 - (a) a report about the applicant's, licensee's or relevant person's criminal history;
 - (b) a brief description of the nature of the offence giving rise to a conviction or charge mentioned in the applicant's, licensee's or relevant person's criminal history.
- (3) The commissioner must comply with the request.
- (4) If the applicant, licensee or relevant person is, or has been, subject to a control order or a registered corresponding control order, the commissioner's report must—

[s 419]

- (a) state the details of the order; or
 - (b) be accompanied by a copy of the order.
- (5) The duty imposed on the commissioner to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (6) In this section—
- applicant for a licence* includes an applicant for the renewal of a licence.
- offence* includes alleged offence.

15A Costs of criminal history report

- (1) The chief executive may require an applicant for a licence or a licensee to pay the reasonable, but no more than actual, costs of obtaining a report under section 15(2) about—
- (a) the applicant or licensee; or
 - (b) a relevant person for the applicant or licensee.
- (2) The chief executive must refund to an applicant an amount paid under subsection (1) if—
- (a) the chief executive refuses the application without asking for the report; or
 - (b) the applicant withdraws the application before the chief executive asks for the report.
- (3) In this section—
- applicant for a licence* includes an applicant for the renewal of a licence.

15B Notice of change in criminal history

- (1) This section applies if—

- (a) the commissioner reasonably suspects a person is the holder of, or an applicant for, a licence; and
 - (b) the person's criminal history changes.
- (2) The commissioner may give the chief executive a written notice about the change in the person's criminal history.
- (3) The notice must—
- (a) state the following details—
 - (i) the person's name and any other name the commissioner believes the person may use or may have used;
 - (ii) the person's address;
 - (iii) the person's date and place of birth;
 - (iv) a brief description of the nature of the offence giving rise to the conviction or charge to which the change relates; and
 - (b) if the change includes the person becoming subject to a control order or a registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.
- (4) The chief executive may confirm the suspicion of the commissioner mentioned in subsection (1)(a).
- (5) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.
- (6) In this section—
offence includes alleged offence.

16 Chief executive may require further information

- (1) The chief executive may, by written notice given to an applicant for a licence, or the renewal of a licence, require the applicant to do 1 or more of the following things—
 - (a) give, in a stated way, stated information the chief executive considers relevant to the investigation of the application;
 - (b) produce, in a stated way, stated records the chief executive considers relevant to the investigation of the application and permit the chief executive to examine, take extracts from and make copies of the records;
 - (c) authorise a person described in the notice to comply with a requirement mentioned in paragraph (a) or (b);
 - (d) give the chief executive the authorisation or consent the chief executive requires to enable the chief executive to obtain, from another person, information relevant to the investigation of the application.
- (2) A person who complies with a requirement of a notice under this section does not incur a liability to another person merely because of the compliance.
- (3) The applicant is taken to have withdrawn the applicant's application if, within a reasonable time stated in the notice, the applicant fails to comply with a requirement under this section in relation to the application.
- (4) In this section—

information includes financial and other confidential information.

16A Use of information obtained under s 15, 15B, 16 or 61

- (1) This section applies to the chief executive in considering information about a person obtained under section 15, 15B, 16 or 61.
- (2) Information about a conviction of the person may be used only for making a decision about whether the person is, or continues to be, a fit and proper person to hold a licence.
- (3) Information about a charge made against the person for a prescribed offence may be used only for deciding whether to grant a licence to the person, or to suspend, or to refuse to renew, the person's licence.
- (4) When making a decision mentioned in subsection (2), the chief executive must have regard to the following matters relating to information about the commission of the offence by the person—
 - (a) when the offence was committed;
 - (b) the nature of the offence and its relevance to the person carrying out a body art tattoo business, or body art tattoo procedures, under the licence;
 - (c) anything else the chief executive considers relevant to the decision.
- (5) When making a decision mentioned in subsection (3), the chief executive must have regard to the following matters relating to information about the alleged or possible commission of the offence by the person—
 - (a) when the offence is alleged to have been committed or may possibly have been committed;
 - (b) the nature of the alleged or possible offence and its relevance to the person carrying out a

[s 420]

body art tattoo business, or body art tattoo procedures, under the licence;

- (c) anything else the chief executive considers relevant to the decision.

420 Amendment of s 17 (Decision on application)

- (1) Section 17(1) to (4)—

omit, insert—

- (1) The chief executive may, after considering an application for a licence and any other information obtained in relation to the application, decide to—

- (a) grant the licence; or
(b) refuse to grant the licence.

- (2) If the applicant has been charged with a prescribed offence, the chief executive may defer making a decision to grant or refuse to grant the licence until the end of the proceeding for the charge.

- (2) Section 17(5) and (6)—

renumber as section 17(3) and (4).

421 Amendment of s 18 (Term of licence)

- (1) Section 18(3)—

insert—

Note—

See also the *Penalties and Sentences Act 1992*, section 161U.

- (2) Section 18(5)—

omit.

422 Omission of pt 3, div 3 (Role of commissioner)

Part 3, division 3—

omit.

423 Amendment of s 25 (Change of licence particulars)

Section 25(2), definition *licensee's particulars*, '12(1)(b)'—

omit, insert—

11A

424 Amendment of s 27 (Changes in staff members)

Section 27(3)—

insert—

(c) any other particulars prescribed by regulation.

425 Amendment of s 33 (Suspension of licence)

(1) Section 33(1)(a), ' , subject to section 22,'—

omit.

(2) Section 33(1)—

insert—

Note—

See also the *Penalties and Sentences Act 1992*, section 161U.

426 Amendment of s 34 (Cancellation of licence)

(1) Section 34(1) to (3)—

omit, insert—

(1) The chief executive may cancel a licence—

[s 427]

- (a) if the chief executive is satisfied the licensee—
 - (i) is no longer a fit and proper person to hold the licence; or
 - (ii) supplied information that was, to the licensee's knowledge, false or misleading in a material particular in, or in connection with, the application for, or renewal of, the licence; or
 - (iii) contravened this Act, whether or not the licensee has been convicted of an offence for the contravention; or
 - (iv) contravened a condition of the licence; or
 - (b) in other circumstances prescribed by regulation.
- (2) For deciding whether a person is not, or is no longer, a fit and proper person to hold the licence, the chief executive may have regard to the matters mentioned in sections 12 to 14 to which the chief executive may have regard in deciding whether an applicant for a licence is a fit and proper person to hold a licence.
- (3) The chief executive may not have regard to criminal intelligence in deciding whether a person is not, or is no longer, a fit and proper person to hold the licence.
- (2) Section 34(5), ‘, subject to section 22,’—
omit.

427 Insertion of new s 34A

Part 3, division 6—

insert—

34A Automatic cancellation on conviction

- (1) A person's licence is cancelled if the person is convicted of a prescribed offence for which a conviction is recorded.
- (2) The person must return the licence to the chief executive within 14 days after its cancellation.

Maximum penalty for subsection (2)—20 penalty units.

428 Insertion of new pt 3, div 6A and div 6B, hdg

After section 35—

insert—

Division 6A Renewal of licences

35A Renewal of licence

- (1) A licensee may apply to the chief executive for the renewal of the licensee's licence before the licence ends.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by—
 - (i) the fee prescribed by regulation; and
 - (ii) if, before or when the application is made, the chief executive requires the payment of costs under section 15A(1)—the amount of costs required to be paid.
- (3) An application for renewal of a licence may be considered by the chief executive only if—
 - (a) the commissioner holds the applicant's fingerprints and palm prints taken under section 35E; or

[s 428]

- (b) the applicant consents to having the applicant's fingerprints and palm prints taken by the commissioner under section 35E.
- (4) If a regulation prescribes a fee for taking an applicant's fingerprints under section 35E, the application must be accompanied by the fee.
- (5) However, subsection (4) does not apply if the commissioner already holds the relevant person's fingerprints taken under section 35E.
- (6) If an applicant's fingerprints are not taken under section 35E for the application, the chief executive must refund to the applicant any fee paid under subsection (4).
- (7) If the chief executive receives an application for the renewal of a licence, the chief executive must renew the licence unless the chief executive considers reasonable grounds exist to refuse to renew the licence under section 35C.
- (8) However, if the applicant has been charged with a relevant offence, the chief executive may defer making a decision about renewing the licence until the proceeding for the charge ends.
- (9) If an application is made under subsection (1) for the renewal of a licence and the chief executive has not, before the licence ends, decided whether to renew the licence, the licence is taken to continue in force until the day—
 - (a) the chief executive decides the application;
or
 - (b) the licensee withdraws the application.
- (10) In this section—

relevant offence means—

 - (a) a prescribed offence; or

- (b) an offence a conviction for which would result in the person convicted being disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister.

35B Term of renewed licence

- (1) A licence granted under this division (a *renewed licence*) begins at the end of the day on which, apart from its renewal, the licence being renewed would have ended.
- (2) A renewed licence is granted for the term, of 1 year or 3 years, stated in the renewed licence.

35C Grounds for refusal to renew

- (1) Each of the following is a ground to refuse to renew a licence—
 - (a) the applicant—
 - (i) is not a fit and proper person to hold the licence; or
 - (ii) has supplied information that was, to the licensee's knowledge, false or misleading in a material particular in, or in connection with, the application for renewal of the licence; or
 - (iii) has contravened a provision of this Act, whether or not the licensee has been convicted of an offence for the contravention; or
 - (iv) has contravened a condition of the licence to which the application for renewal relates;
 - (b) it would be contrary to the public interest for the licence to be granted;

[s 428]

- (c) another ground prescribed by regulation.
- (2) Without limiting subsection (1), it is a ground to refuse to renew an operator licence that a closure order made under section 47 is, or has been, in force in relation to the licensed premises.
- (3) For deciding whether a person continues to be a fit and proper person to hold the licence, the chief executive may have regard to the matters mentioned in sections 12 to 14 to which the chief executive may have regard in deciding whether an applicant for a licence is a fit and proper person to hold a licence.
- (4) A person is not, or is no longer, a fit and proper person to hold a licence if the person is subject to a relevant control order.
- (5) The chief executive may not have regard to criminal intelligence in deciding whether—
 - (a) a person is not, or is no longer, a fit and proper person to hold a licence; or
 - (b) it would be contrary to the public interest for the licence to be granted.

35D Procedure for refusal to renew

- (1) If the chief executive considers reasonable grounds exist to refuse to renew a licence, the chief executive must give the applicant a written notice that—
 - (a) states the chief executive proposes not to renew the licence; and
 - (b) states the grounds for proposing not to renew the licence; and
 - (c) invites the person to show within a stated period, not less than 28 business days after

the notice is given to the person, why the application should not be refused.

- (2) If, after considering all representations made within the stated period, the chief executive still believes that grounds not to renew the licence exist, the chief executive may decide to refuse to renew the licence.
- (3) If the chief executive decides to refuse to renew the licence, the chief executive must give the applicant a QCAT information notice for the decision.
- (4) The decision takes effect on the later of the following—
 - (a) the day on which the notice is given to the licensee;
 - (b) the day stated in the notice.

Division 6B Fingerprint and palm print procedures

429 Amendment of s 38 (Way in which records for licensed premises to be kept)

Section 38(1)(b)—

omit, insert—

- (b) is at all times kept—
 - (i) for a licensed premises that is a fixed premises—at the licensed premises; or
 - (ii) for a licensed premises that is a mobile premises—at the fixed premises mentioned in section 11A(1)(b)(ii).

[s 430]

430 Amendment of s 40 (Authority conferred by permit)

Section 40(a), 'premises'—

omit, insert—

place

431 Amendment of s 41 (Application for exhibition permit)

Section 41(5)(g), 'premises'—

omit, insert—

place

432 Amendment of s 42 (Decision about application for exhibition permit)

(1) Section 42(2)(a)—

omit, insert—

(a) whether the applicant has ever applied for a licence and, if so, any decision in relation to the application;

(2) Section 42—

insert—

(3A) The chief executive may also decide not to grant the permit if—

(a) the grant of the permit would result in more than 2 exhibition permits being granted to the same individual, or an individual applying on behalf of the same corporation, partnership or trust, in the same calendar year; and

(b) the chief executive reasonably believes the individual is seeking to avoid applying for or holding a licence.

(3) Section 42(10)—

omit.

433 Amendment of s 44 (Application for visiting tattooist permit)

(1) Section 44(4)(e)—

insert—

(ia) if a visa has not been issued to the applicant to enter Australia—evidence that the applicant has applied for a visa at least 7 days before the proposed commencement date for the permit;

(2) Section 44(4)(e)(ia) to (iv)—

renumber as section 44(4)(e)(iii) to (v).

434 Amendment of s 45 (Decision about application for visiting tattooist permit)

(1) Section 45—

insert—

(3A) The chief executive may also refuse to grant the permit if—

(a) the grant of the permit would result in more than 2 visiting tattooist permits being granted to the same individual in the same calendar year; and

(b) the chief executive reasonably believes the individual is seeking to avoid applying for or holding a licence.

(2) Section 45(11)—

omit.

(3) Section 45(3A) to (10)—

renumber as section 45(4) to (11).

[s 435]

435 Amendment of s 46 (Interim closure of unlicensed or illegal tattoo parlours)

(1) Section 46, heading, ‘tattoo parlours’—

omit, insert—

body art tattooing businesses

(2) Section 46(2)(b)—

omit, insert—

(b) posted in a conspicuous place—

(i) for a licensed premises that is a fixed premises—at the entrance to the licensed premises; or

(ii) for a licensed premises that is a mobile premises—

(A) on the mobile premises; or

(B) at the entrance to the fixed premises mentioned in section 11A(1)(b)(ii).

436 Amendment of s 47 (Long-term closure of tattoo parlours)

Section 47, heading, ‘tattoo parlours’—

omit, insert—

body art tattooing businesses

437 Omission of ss 57 and 58

Sections 57 and 58—

omit.

438 Amendment of s 59 (False or misleading statements)

Section 59(2), definition *official*—

insert—

- (c) the commissioner.

439 Amendment of s 60 (False or misleading documents)

Section 60(3), definition *official—*

insert—

- (c) the commissioner.

440 Replacement of ss 61 and 62

Sections 61 and 62—

omit, insert—

61 Exchange of information

- (1) The chief executive may enter into an arrangement (an ***information-sharing arrangement***) with a relevant agency for the purpose of sharing or exchanging information—
 - (a) held by the chief executive or the relevant agency; or
 - (b) to which the chief executive or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
 - (a) the chief executive perform the chief executive's functions under this Act; or
 - (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and

[s 440]

- (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence given to the chief executive by the commissioner under an information-sharing arrangement only for monitoring compliance with this Act.
- (5) In this section—

information does not include information given to the chief executive or a relevant agency, or to which the chief executive or relevant agency has access, under the *Crime and Corruption Act 2001*.

relevant agency means the following—

 - (a) the commissioner;
 - (b) the chief executive of a department;
 - (c) a local government;
 - (d) a person prescribed by regulation.

62 Confidentiality

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act.
- (2) The person must not make a record of the information or disclose the information to another person, other than under subsection (4).

Maximum penalty—35 penalty units.
- (3) Without limiting subsection (1), a person gains confidential information through involvement in the administration of this Act if the person gains the information because of being, or an opportunity given by being—
 - (a) the chief executive; or
 - (b) a public service employee employed in the department; or

-
- (c) a person engaged by the chief executive for this Act.
- (4) A person may make a record of confidential information or disclose it to another person—
- (a) for this Act; or
 - (b) to discharge a function under another law; or
 - (c) for a proceeding in a court or QCAT; or
 - (d) if authorised by a court or QCAT in the interests of justice; or
 - (e) if required or permitted by law; or
 - (f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates.
- (5) The chief executive must destroy the following as soon as practicable after it is no longer needed for the purpose for which it was requested or given—
- (a) a report about the criminal history of a person given under section 15(3);
 - (b) a copy of a control order accompanying a report about the criminal history of a person given under section 15(3);
 - (c) a notice given under section 15B(2);
 - (d) information about a person obtained under section 61.
- (6) Subsection (5) applies despite the *Public Records Act 2002*.
- (7) In this section—
- confidential information***—
- (a) includes information about a person's affairs; but

[s 441]

- (b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

441 Amendment of s 63 (Protection from liability)

- (1) Section 63(3), definition *official*—
insert—
 - (aa) the commissioner; or
- (2) Section 63(3), definition *official*, paragraphs (aa) to (d)—
renumber as section 63(3), definition *official*, paragraphs (b) to (e).

442 Amendment of s 70 (Regulation-making power)

Section 70(2)—

omit, insert—

- (2) Without limiting subsection (1), a regulation may be made about the following—
 - (a) setting fees payable under this Act, including the waiver, reduction, postponement or refund of fees payable or paid;
 - (b) the making, keeping and inspection of records in connection with the carrying on of a body art tattooing business.

443 Omission of s 71 (Act to be reviewed)

Section 71—

omit.

444 Replacement of pt 8, hdg (Transitional provision)

Part 8, heading—

omit, insert—

Part 8 Transitional provisions

**Division 1 Transitional provision for
Tattoo Parlours Act 2013**

445 Insertion of new pt 8, div 2

Part 8—

insert—

**Division 2 Transitional provisions for
Serious and Organised
Crime Legislation
Amendment Act 2016**

73 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant of a licence or permit.
- (2) The application is taken to have been withdrawn.

74 Show cause process not finally decided

- (1) This section applies if—
 - (a) the chief executive had given a QCAT notice mentioned in section 33(1) or 34(5) (the *show cause notice*) to a person; and
 - (b) immediately before the commencement, the chief executive had not finally dealt with the

[s 445]

matters relating to the show cause notice
(the *show cause process*).

- (2) The show cause process must continue under this Act as in force after the commencement.

75 Proceedings not finally decided

- (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—
 - (a) a proceeding before QCAT for a review of a decision mentioned in repealed section 57(1);
 - (b) a proceeding about a decision mentioned in repealed section 57(1) in the Supreme Court.
- (2) The proceeding is discontinued.
- (3) QCAT or the Supreme Court must return to the commissioner any criminal intelligence report or other criminal information mentioned in repealed section 20(3) relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
 - (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had been started but not ended.
- (5) In this section—

repealed, in relation to a provision of this Act,

means the provision as in force immediately before the commencement.

76 Additional prescribed offences

Until the expiry of the Criminal Code, sections 60A and 60B, the definition *prescribed offence* for this Act is taken to include a reference to those sections.

77 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the pre-amended Act to the operation of the amended Act; and
 - (b) this Act does not make provision or sufficient provision.
- (2) Without limiting subsection (1), a transitional regulation may continue the operation of a provision of the pre-amended Act that was omitted by the amending Act.
- (3) A transitional regulation may have retrospective operation to a day that is not earlier than the day of the commencement.
- (4) A transitional regulation must declare it is a transitional regulation.
- (5) This section and any transitional regulation expire 2 years after the day of commencement.
- (6) In this section—

amended Act means this Act as in force after the commencement.

[s 446]

amending Act means the *Serious and Organised Crime Legislation Amendment Act 2016*.

pre-amended Act means this Act as it was in force immediately before the commencement.

446 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, authorising provision, ‘3’—

omit, insert—

4

- (2) Schedule 1, definitions *adverse security determination* and *close associate—*

omit.

- (3) Schedule 1—

insert—

charge, for an offence, means a charge in any form, including, for example, the following—

- (a) a charge on an arrest;
- (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;
- (c) a complaint under the *Justices Act 1886*;
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act;
- (e) an indictment.

control order see the *Penalties and Sentences Act 1992*, section 161N.

convicted, of a prescribed offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

criminal history, of a person, means—

- (a) despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6, every conviction of the person for an offence, in Queensland or elsewhere, whether before or after the commencement; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere, whether before or after the commencement.

criminal intelligence see the Criminal Code, section 86(3).

fixed premises means premises that is a building or other structure, or part of a building or other structure, that has a permanent address.

mobile premises, in relation to a body art tattooing business, means premises that is a vehicle, building or other structure ordinarily moved from place to place.

premises means—

- (a) a building or other structure, or part of a building or other structure, that has a permanent address; or
- (b) a vehicle, building or other structure ordinarily moved from place to place.

prescribed offence means—

- (a) an offence against the Criminal Code, section 76; or
- (b) an offence mentioned in the Criminal Code, part 2, chapter 9A; or
- (c) an offence that is—
 - (i) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and

[s 447]

- (ii) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q.

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

relevant control order means a control order or registered corresponding control order that restricts the person from carrying on a business, engaging in an occupation or performing an activity requiring a licence.

relevant person, for an applicant or licensee, means—

- (a) if the business to which the application or licence relates is owned or operated by or on behalf of a corporation—a director of the corporation or a member of its governing body; or
- (b) if the business to which the application or licence relates is owned or operated by or on behalf of a partnership—a partner, including a silent partner, of the partnership; or
- (c) if the business to which the application or licence relates is owned or operated by or on behalf of a trust—a trustee of the trust.

447 Renumbering of ss 12A and 12B

Sections 12A and 12B, as inserted by this Act—
renumber as sections 13 and 14.

448 Renumbering of pt 3, divs 4–8

Part 3, divisions 4 to 8—
renumber as part 3, divisions 3 to 9.

Part 31 Amendment of Tow Truck Act 1973

449 Act amended

This part amends the *Tow Truck Act 1973*.

450 Amendment of s 4C (Who is an appropriate person)

(1) Section 4C(1AA)—

omit.

(2) Section 4C(1)—

insert—

(k) whether the person is, or has been, the subject of a control order or registered corresponding control order.

(3) Section 4C—

insert—

(1A) The chief executive may not take into account criminal intelligence given by the police commissioner to the chief executive under section 36B when deciding whether a person is an appropriate person to hold or continue to hold a licence or certificate under this Act.

(4) Section 4C(1A) and (2)—

renumber as section 4C(2) and (3).

451 Omission of pt 4, div 2, sdiv 1 and sdiv 2, hdg

Part 4, division 2, subdivision 1 and subdivision 2, heading—
omit.

[s 452]

452 Amendment of s 21A (Cancellation or suspension of authorities)

(1) Section 21A(ca)—

omit.

(2) Section 21A—

insert—

- (2) The chief executive may not cancel or suspend an authority holder's authority on the basis of criminal intelligence given by the police commissioner to the chief executive under section 36B.

453 Amendment of s 21B (Immediate suspension of authority)

(1) Section 21B(1), 'any of'—

omit.

(2) Section 21B(1)(c)—

omit.

(3) Section 21B(4)(c), from ' , unless' to 'organisation'—

omit.

(4) Section 21B(4), note—

omit.

454 Amendment of s 21D (Amending, suspending or cancelling authority)

(1) Section 21D(7)(b), from ' , unless' to 'organisation'—

omit.

(2) Section 21D(7), note—

omit.

455 Omission of pt 4, div 2, sdiv 3, hdg (Delivery of cancelled or suspended authorities)

Part 4, division 2, subdivision 3, heading—
omit.

456 Amendment of s 21G (Delivery of cancelled or suspended authority)

Section 21G, from ‘QCAT’ to ‘or the’—
omit.

457 Omission of pt 6, div 1, hdg and s 27A

Part 6, division 1, heading and section 27A—
omit.

458 Amendment of s 28 (Internal review of decisions)

Section 28(1), from ‘, except’ to ‘the decision’—
omit.

459 Amendment of s 29 (Review of decisions by QCAT)

(1) Section 29(1), from ‘for—’

omit, insert—

for a decision on a review under section 28 of a
decision mentioned in schedule 1.

(2) Section 29(3)—

omit.

460 Omission of pt 6, div 2 (Confidentiality and application of Judicial Review Act 1991)

Part 6, division 2—

[s 461]

omit.

461 Amendment of s 36 (Chief executive may obtain information from police commissioner—criminal history)

(1) Section 36(1), after ‘history’—

insert—

, including whether the person is, or has been, the subject of a control order or registered corresponding control order,

(2) Section 36—

insert—

(5) A report under subsection (3) must, if the person is, or has been, the subject of a control order or registered corresponding control order—

- (a) state the details of the order; or
- (b) be accompanied by a copy of the order.

462 Amendment of s 36A (Notice of change in police information about a person—criminal history)

Section 36A—

insert—

(4) A notice under subsection (3) must also, if the person is, or has been, the subject of a control order or registered corresponding control order—

- (a) state the details of the order; or
- (b) be accompanied by a copy of the order.

463 Omission of s 36AA (Requesting and using police commissioner’s advice—identified participants and criminal organisations)

Section 36AA—

omit.

464 Replacement of s 36B (Chief executive may enter into arrangement about giving and receiving information with police commissioner)

Section 36B—

omit, insert—

36B Exchange of information

- (1) The chief executive may enter into an arrangement (an *information-sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging information—
 - (a) held by the chief executive or the relevant agency; or
 - (b) to which the chief executive or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
 - (a) the chief executive perform the chief executive's functions under this Act; or
 - (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
 - (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence given to the chief executive by the police commissioner under an information-sharing arrangement only for monitoring compliance with this Act.

[s 465]

(5) In this section—

information does not include information given to the chief executive or a relevant agency, or to which the chief executive or relevant agency has access, under the *Crime and Corruption Act 2001*.

relevant agency means the following—

- (a) the police commissioner;
- (b) the chief executive of a department;
- (c) a local government;
- (d) a person prescribed by regulation.

465 Amendment of s 36C (Confidentiality)

(1) Section 36C—

insert—

(2A) Subsection (2)(b)(ii) does not apply if the information is criminal intelligence.

(2) Section 36C(2A) and (3)—

renumber as section 36C(3) and (4).

466 Insertion of new pt 8, div 4

After section 46—

insert—

Division 4 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

47 Definition for division

In this division—

authority means—

- (a) an assistant's certificate; or
- (b) a driver's certificate; or
- (c) a licence.

48 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant or renewal of an authority.
- (2) The chief executive must decide the application under this Act as in force after the commencement.

49 Show cause process not finally decided

- (1) This section applies if—
 - (a) the chief executive had given a written notice to an authority holder under section 21C(2) or 21D(3); and
 - (b) immediately before the commencement, the chief executive had not finally dealt with matters relating to the written notice under section 21D(6) (the *show cause process*).
- (2) The show cause process must continue under this Act as in force after the commencement.

50 Proceedings not finally decided

- (1) This section applies if, immediately before the commencement, the following proceedings had been started but not finally dealt with—
 - (a) a proceeding before QCAT for a review of a relevant decision;

[s 467]

- (b) a proceeding before the Supreme Court about a relevant decision.
- (2) The proceeding is discontinued and the matter is remitted to the chief executive for the chief executive to decide again under this Act as in force after the commencement.
- (3) QCAT or the Supreme Court must return to the police commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
 - (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.
- (5) In this section—

criminal intelligence means criminal intelligence within the meaning of repealed section 30(7).

relevant decision means a decision for which an information notice was given under repealed section 21AA or repealed section 27A.

repealed, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

467 Amendment of sch 1 (Reviewable decisions)

Schedule 1, authorising provision, '27A, 28, 29 and 30'—
omit, insert—

28 and 29

468 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *criminal organisation* and *identified participant*—

omit.

(2) Schedule 2—

insert—

control order see the *Penalties and Sentences Act 1992*, section 161N.

criminal intelligence see the Criminal Code, section 86(3).

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

Part 32 Amendment of Transport Operations (Passenger Transport) Act 1994

469 Act amended

This part amends the *Transport Operations (Passenger Transport) Act 1994*.

470 Amendment of sch 1A (Driver disqualification offences)

Schedule 1A, part 1, division 1—

insert—

10E section 228DA (Administering child exploitation material website)

[s 471]

- 10F section 228DB (Encouraging use of child exploitation material website)
- 10G section 228DC (Distributing information about avoiding detection)

Part 33 Amendment of Weapons Act 1990

471 Act amended

This part amends the *Weapons Act 1990*.

472 Amendment of s 10 (Limitations on issue of licence)

Section 10(3)(a)(iii) and (iv) and (b)(iii) and (iv)—
omit.

473 Amendment of s 10B (Fit and proper person—licensees)

Section 10B(2A)—
omit.

474 Amendment of s 10C (Fit and proper person—licensed dealer's associate)

Section 10C(2A)—
omit.

475 Amendment of s 14 (Inquiries into application)

- (1) Section 14(1A)—
omit.
- (2) Section 14(3A)—

omit.

- (3) Section 14(9), from ‘, other’ to ‘(3A),’—

omit.

- (4) Section 14(9A)—

omit.

476 Amendment of s 18 (Renewal of licences)

Section 18(4A) to (4C)—

omit.

477 Amendment of s 19 (Notice of rejection of application to issue or renew licence)

Section 19(2), from ‘(other’ to ‘18(4B))’—

omit.

478 Amendment of s 30 (Suspension or revocation notice)

- (1) Section 30(1A), ‘(other than advice given by the commissioner to an authorised officer under section 18(4B) or subsection (1C))’—

omit.

- (2) Section 30(1B) to (1D)—

omit.

479 Amendment of s 50B (Unlawful supply of weapons)

Section 50B—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.

[s 480]

- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

480 Amendment of s 65 (Unlawful trafficking in weapons)

Section 65—

insert—

- (3) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

481 Amendment of s 142AA (Notices must be QCAT information notices)

Section 142AA(3)—

omit.

482 Amendment of s 142A (Confidentiality of criminal intelligence)

- (1) Section 142A(2)—

insert—

- (c) may, as it considers appropriate to protect the confidentiality of criminal intelligence, take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.

- (2) Section 142A—

insert—

- (2A) If the court or tribunal considers information categorised as criminal intelligence by the commissioner has been incorrectly categorised as criminal intelligence, the commissioner may withdraw the information from consideration by the court or tribunal.
- (2B) Information that is withdrawn by the commissioner under subsection (2A) must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by the court or tribunal.
- (2C) The *Public Records Act 2002* does not apply to activities of, or records made or kept by, the court or tribunal to the extent that Act would otherwise enable criminal intelligence to be disclosed.

483 Omission of ss 143 and 144

Sections 143 and 144—

omit.

484 Amendment of s 145 (Applicant may carry on business pending review)

Section 145(2)—

omit.

485 Amendment of s 161 (Proceedings for an offence)

Section 161—

insert—

- (3A) However, an offence against section 50B or 65 may not be by way of summary proceedings

[s 486]

under subsection (1) if the person is alleged to have committed the offence with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q.

486 Omission of pt 8, div 5 (Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013)

Part 8, division 5—

omit.

487 Insertion of new pt 8, div 7

Part 8—

insert—

Division 7 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

193 Applications not finally decided

- (1) This section applies if, immediately before the commencement, an authorised officer had not finally decided an application for the grant or renewal of an authority.
- (2) The authorised officer must decide the application under this Act as in force after the commencement.
- (3) In this section—
authority means—
 - (a) a licence; or
 - (b) a permit to acquire; or

- (c) a shooting club permit; or
- (d) an approval to conduct an arms fair under section 79(2); or
- (e) an approval of a range under section 101(1); or
- (f) an approval of a shooting gallery under section 111; or
- (g) any other type of approval, licence or permit granted or renewed by an authorised officer under this Act.

194 Proceedings not finally decided

- (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—
 - (a) a proceeding before QCAT for a review of a decision mentioned in repealed section 143(1);
 - (b) a proceeding before the Supreme Court about a decision mentioned in repealed section 143(1).
- (2) The proceeding is discontinued and the matter is remitted to an authorised officer for the authorised officer to decide again under this Act as in force after the commencement.
- (3) QCAT or the Supreme Court must return to the commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
 - (a) QCAT or the Supreme Court had not made a decision; or

[s 488]

- (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.
- (5) In this section—
- criminal intelligence* means criminal intelligence within the meaning of repealed 143(6).
- repealed*, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

488 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *criminal organisation* and *identified participant*—
omit.
- (2) Schedule 2, definition *criminal intelligence*, from ‘activity,’—
omit, insert—
activity.

Part 34 Amendment of Working with Children (Risk Management and Screening) Act 2000

489 Act amended

This part amends the *Working with Children (Risk Management and Screening) Act 2000*.

490 Amendment of sch 2 (Current serious offences)

Schedule 2, item 4, table—

insert—

- 228DA Administering child
exploitation material website
- 228DB Encouraging use of child
exploitation material website
- 228DC Distributing information about
avoiding detection

491 Amendment of sch 4 (Current disqualifying offences)

Schedule 4, item 4, table—

insert—

- 228DA Administering child
exploitation material website
- 228DB Encouraging use of child
exploitation material website
- 228DC Distributing information about
avoiding detection

Part 35 Repeals

492 Repeal of Acts

The following Acts are repealed—

- Criminal Organisation Act 2009 No. 53
- Vicious Lawless Association Disestablishment Act 2013 No. 47

Part 36 **Minor and consequential amendments**

493 **Legislation amended**

Schedule 1 amends the legislation it mentions.

Part 37 **Other matters**

494 **Making of Criminal Code (External Agencies) Regulation 2016**

- (1) Schedule 2 has effect to make the *Criminal Code (External Agencies) Regulation 2016* that is set out in schedule 2 as a regulation under the Criminal Code.
- (2) To remove any doubt, it is declared that the *Criminal Code (External Agencies) Regulation 2016*, on the commencement of schedule 2, stops being a provision of this Act and becomes a regulation made under the Criminal Code.

495 **Automatic repeal**

For the purposes of the *Acts Interpretation Act 1954*, section 22C, this Act is an amending Act.

**Schedule 1 Minor and consequential
amendments**

section 493

**Part 1 Amendments commencing on
assent**

**Criminal Code (Criminal Organisations) Regulation
2013**

- 1 Section 2, ‘paragraph (c)’—**
omit, insert—
paragraph (b)

Drugs Misuse Act 1986

- 1 Part 7, divisions 5 and 8, headings, ‘Provisions’—**
omit, insert—
Provision
- 2 Schedule, authorising provision, ‘schedule’—**
omit, insert—
section

- 2 Part 7, division 1, heading—**
omit.
- 3 Part 7, subdivisions 1 to 5—**
renumber as part 7, divisions 1 to 5.
- 4 Section 192, heading ‘div 1’—**
omit, insert—
part
- 5 Section 192, ‘division’—**
omit, insert—
part

Penalties and Sentences Act 1992

- 1 Part 14, division 12, second occurring and division 13—**
renumber as part 14, divisions 13 and 14.
- 2 Section 239, second occurring and section 240—**
renumber as sections 240 and 241.

Police Powers and Responsibilities Act 2000

- 1 Section 43(3), ‘if the person’—**
omit, insert—

if

2 Section 43(3)(a), before ‘either’—

insert—

the person

3 Section 66(8), definition *owner*, ‘motor’—

omit.

4 Section 103(3), ‘and keeping’—

omit, insert—

or keeping

5 Section 214(c), after ‘surveillance’—

insert—

device

6 Section 224(3)—

omit, insert—

(3) The authority must be written and state—

(a) the controlled activity the police officer is authorised to engage in; and

(b) the period, of not more than 7 days, for which the authority is in force.

7 Section 224(5)—

omit.

may

16 Section 614(1)(a), ‘surveillance powers’—

omit, insert—

powers

17 Section 800(1), ‘86(6)’—

omit, insert—

86(5)

18 Chapter 24, heading ‘, transitional provisions and amendments’—

omit, insert—

and transitional provisions

19 Chapter 24, part 1, heading, ‘and amended’—

omit.

20 Chapter 24, part 5, division 6, heading—

omit.

21 Schedule 1, entry for *Community Services (Torres Strait) Act 1984*—

omit.

22 Schedule 2, authorising provision, ‘sections 229 and 323’—

omit, insert—

section 221, definition *controlled activity offence*,
section 229, definition *relevant offence* and
section 323

Police Powers and Responsibilities Act 2000

1 Section 34, definition *body art tattooing business*, ‘*Tattoo Parlours Act 2013*’—

omit, insert—

Tattoo Industry Act 2013

2 Sections 42(1)(c)(i) and 60(3)(h), ‘or 4A’—

omit.

3 Section 809(2)(b), ‘, 4A’—

omit.

4 Section 809(2)(d)—

omit.

5 Schedule 6, definitions *criminal organisation offence*, *eligible person*, for chapter 4A, *immobilise*, for chapter 4A, *immobilising device*, for chapter 4A, *immobilising notice*, for chapter 4A, *impounding notice*, *information notice*, for chapter 4A, *number plate*, for chapter 4A, *number plate confiscation notice*, for chapter 4A, *usual possessor*, *vehicle production notice*, for chapter 4A and *vehicle release notice*, for chapter 4A—

omit.

6 Schedule 6, definition *owner*, ‘, 4A’—

omit.

Queensland Civil and Administrative Tribunal Regulation 2009

1 **Schedule 1, part 1, entry for *Tattoo Parlours Act 2013*—**
omit.

2 **Schedule 1, part 1—**
insert—

Tattoo Industry Act 2013, section 56(1)

Tattoo Parlours Regulation 2013

1 **Section 1, ‘*Tattoo Parlours Regulation 2013*’—**
omit, insert—

Tattoo Industry Regulation 2013

Weapons Regulation 2016

1 **Section 17(b)(ii), ‘or a similar Act’—**
omit, insert—

part 2 or similar provisions of an Act

Schedule 2 Criminal Code (External Agencies) Regulation 2016

section 494

1 Short title

This regulation may be cited as the *Criminal Code (External Agencies) Regulation 2016*.

2 External agencies

For the Criminal Code, section 86(3), definition *external agency*, paragraph (f)(iii), each of the following entities is declared to be an external agency—

- (a) ASIC;
- (b) the Australian Crime Commission under the *Australian Crime Commission Act 2002* (Cwlth);
- (c) the Australian Border Force under the *Australian Border Force Act 2015* (Cwlth);
- (d) the Australian Security Intelligence Organisation established under the *Australian Security Intelligence Organisation Act 1979* (Cwlth);
- (e) the Corruption and Crime Commission established under the *Corruption, Crime and Misconduct Act 2003* (WA);
- (f) the Independent Commission against Corruption established under the *Independent Commission Against Corruption Act 1988* (NSW);
- (g) the New South Wales Crime Commission established under the *Crime Commission Act 2012* (NSW);
- (h) the Independent Broad-based Anti-corruption Commission established under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic);

- (i) the Australian Commission for Law Enforcement Integrity established by the *Law Enforcement Integrity Commissioner Act 2006* (Cwlth).

© State of Queensland 2016