

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, August 2024*



Queensland

**No.
A BILL for**

An Act to amend the Childrens Court Act 1992, the Corrective Services Act 2006, the Criminal Code, the Disaster Management and Other Legislation Amendment Act 2024, the Domestic and Family Violence Protection Act 2012, the Explosives Act 1999, the Family Responsibilities Commission Act 2008, the Judicial Review Act 1991, the Maritime Safety Queensland Act 2002, the Police Powers and Responsibilities Act 2000, the Summary Offences Act 2005, the Transport Operations (Road Use Management) Act 1995, the Weapons Act 1990, the Youth Justice Act 1992 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Queensland Community Safety Bill 2024

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2024

A Bill

for

An Act to amend the *Childrens Court Act 1992*, the *Corrective Services Act 2006*, the Criminal Code, the *Disaster Management and Other Legislation Amendment Act 2024*, the *Domestic and Family Violence Protection Act 2012*, the *Explosives Act 1999*, the *Family Responsibilities Commission Act 2008*, the *Judicial Review Act 1991*, the *Maritime Safety Queensland Act 2002*, the *Police Powers and Responsibilities Act 2000*, the *Summary Offences Act 2005*, the *Transport Operations (Road Use Management) Act 1995*, the *Weapons Act 1990*, the *Youth Justice Act 1992* and the legislation mentioned in schedule 1 for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Queensland Community Safety Act 2024*.

2 Commencement

- (1) The following provisions commence on a day to be fixed by proclamation—
 - (a) part 2, division 1, subdivision 1;
 - (b) part 2, division 4;
 - (c) part 3, division 1;
 - (d) part 3, division 2, subdivision 2;
 - (e) part 3, division 3;
 - (f) schedule 1, amendment of the *Police Service Administration Act 1990*.
- (2) Section 22 commences—
 - (a) on the commencement of the *State Emergency Service Act 2024*, schedule 1; or
 - (b) if the time mentioned in paragraph (a) is before the date of assent of this Act—on the date of assent of this Act.
- (3) Section 23 commences—
 - (a) on the commencement of the *Emergency Services Reform Amendment Act 2024*, section 23; or
 - (b) if the time mentioned in paragraph (a) is before the date of assent of this Act—on the date of assent of this Act.

- (4) Part 2, division 2, subdivision 3 commences on the commencement of the *Disaster Management and Other Legislation Amendment Act 2024*, schedule 1.

Part 2 **Amendments relating to online criminal content, vehicles and weapons**

Division 1 **Online criminal content**

Subdivision 1 **Amendment of Police Powers and Responsibilities Act 2000**

3 **Act amended**

This subdivision amends the *Police Powers and Responsibilities Act 2000*.

4 **Insertion of new ch 21A**

After chapter 21—

insert—

Chapter 21A Removal of particular online content

745A Extraterritorial application of chapter

- (1) This chapter applies both within and outside Queensland.
- (2) This chapter applies outside Queensland to the full extent of the extraterritorial legislative power

[s 4]

of the Parliament.

745B Definitions for chapter

In this chapter—

authorised officer means a police officer or staff member authorised under section 745C to give removal notices under this chapter.

material means any material capable of being published online using a social media platform or online social network, including, for example—

- (a) sounds, including speech or music; or
- (b) visual images, whether moving or not; or
- (c) text; or
- (d) material that is any combination of sound, images or text; or
- (e) material that is digitally created, altered or manipulated.

provided, in relation to material on a social media platform or online social network, means the material is accessible by, or delivered to, 1 or more persons using the platform or network.

provider, of a social media platform or online social network, does not include a person that merely provides a service that enables material to be accessed or delivered but is not, of itself, a social media platform or online social network.

Examples—

- a carriage service under the *Telecommunications Act 1997* (Cwlth)
- a caching or hosting service

removal notice see section 745D(2).

removed, in relation to material on a social media platform or online social network, means the

material is not accessible by, or delivered to, any person in Queensland using the service.

745C Authorised officers

The commissioner may authorise a police officer of at least the rank of senior sergeant, or a staff member, to give removal notices under this chapter.

745D Removal notice

- (1) This section applies if—
 - (a) material is provided on a social media platform or online social network; and
 - (b) an authorised officer is satisfied the material depicts conduct (the *unlawful conduct*) that constitutes any of the following offences against an Act of Queensland—
 - (i) an offence involving driving or operating a vehicle;
 - (ii) an offence involving violence or a threat of violence;
 - (iii) an offence involving taking, damaging, destroying, removing, using, interfering with or entering property;
 - (iv) an offence involving a weapon; and
 - (c) the authorised officer suspects a person published the material on the social media platform or online social network for the purpose of—
 - (i) glorifying the unlawful conduct; or
 - (ii) increasing the person's reputation, or another person's reputation, because of

[s 4]

- their involvement in the unlawful conduct; and
- (d) the material has been accessed by a person in Queensland; and
 - (e) the authorised officer suspects either—
 - (i) the unlawful conduct happened in Queensland; or
 - (ii) the material was published on the social media platform or online social network by a person who was in Queensland or ordinarily resident in Queensland.
- (1A) However, this section does not apply in relation to material posted on a social media platform or online social network by a journalist in the course of their activities as a journalist.
- (2) The authorised officer may give a notice (*removal notice*) to the provider of the social media platform or online social network requiring the provider to remove the material from the platform or network.
 - (3) The notice must—
 - (a) describe the material in a way that enables the provider to identify and remove it; and
 - (b) state the time, no earlier than 24 hours from the time the notice is given, by which the material must be removed; and
 - (c) warn the provider that, if the provider does not comply with the notice, the commissioner may apply for an order under section 745E.
 - (4) If the authorised officer considers it appropriate, the officer may give the provider a notice extending the time by which the material must be removed.

- (5) The provider must comply with the removal notice no later than the time stated in the notice or any later time allowed under subsection (4).
- (6) For a proceeding under section 745E, the provider is taken to have complied with the removal notice if the provider proves it took all reasonable steps to comply with the notice.
- (7) In this section—
journalist see the *Evidence Act 1977*, section 14R.

745E Civil penalty order

- (1) The commissioner may apply to the Supreme Court for an order that the provider of a social media platform or online social network pay to the State a civil penalty for contravening section 745D(5).
- (2) The application must be made within 1 year after the day of the alleged contravention.
- (3) The court may make the order if the court is satisfied the provider contravened section 745D(5).
- (4) The order may require the provider to pay the State, as a civil penalty, an amount of not more than 10,000 penalty units for the contravention.
- (5) In deciding the amount of the penalty, the court must have regard to the circumstances of the contravention, including—
 - (a) the nature and extent of the contravention; and
 - (b) whether the provider has previously been found to have engaged in similar conduct, in Queensland or elsewhere; and

[s 5]

- (c) any other circumstances the court considers relevant.
- (6) The amount of the civil penalty that the provider is ordered to pay is a debt payable by the provider to the State.

745F Failure to provide procedural fairness does not affect validity

Any failure by an authorised officer to provide procedural fairness to the provider of a social media platform or online social network in relation to the giving of a removal notice to the provider does not affect the validity of the notice.

745G Service of documents

- (1) The *Acts Interpretation Act 1954*, section 39 applies to the service of documents on the provider of a social media platform or online social network or other entity whether the entity's address is within or outside Queensland.
- (2) In this section—
address means—
 - (a) for an individual—the address of the place of residence or business of the individual; or
 - (b) for a body corporate—the head office, a registered office or a principal office of the body corporate.

5 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *authorised officer*—
omit.
- (2) Schedule 6—

insert—

authorised officer—

- (a) for chapter 12, see section 280; or
- (b) for chapter 21A, see section 745B.

material, for chapter 21A, see section 745B.

provided, in relation to material on a social media platform or online social network, for chapter 21A, see section 745B.

provider, of a social media platform or online social network, for chapter 21A, see section 745B.

removal notice, for chapter 21A, see section 745D(2).

removed, in relation to material on a social media platform or online social network, for chapter 21A, see section 745B.

Subdivision 2 Amendment of Summary Offences Act 2005

6 Act amended

This subdivision amends the *Summary Offences Act 2005*.

7 Insertion of new s 26B

After section 26A—

insert—

26B Publishing material about particular offending behaviour

- (1) A person must not, without reasonable excuse, publish material on a social media platform or an online social network if—

[s 7]

- (a) the material depicts conduct that constitutes a prescribed offence; and
- (b) the person publishes the material for the purpose of—
 - (i) glorifying the conduct; or
 - (ii) increasing the person’s reputation, or another person’s reputation, because of their involvement in the conduct.

Maximum penalty—2 years imprisonment.

- (2) Subsection (1) does not apply to publication of material by a journalist in the course of their activities as a journalist.
- (3) A person may be proceeded against for, and convicted of, an offence against subsection (1) whether or not anyone has been proceeded against for, or convicted of, the prescribed offence.
- (4) A person may not be convicted of both—
 - (a) an offence against subsection (1) relating to the publication of material depicting conduct that constitutes a relevant Code or weapons offence; and
 - (b) a relevant Code or weapons offence with a circumstance of aggravation relating to the publication of material on a social media platform or an online social network.
- (5) In this section—

material includes an electronic document.

prescribed offence means any of the following offences against an Act of Queensland—

 - (a) an offence involving driving or operating a vehicle;
 - (b) an offence involving violence or a threat of violence;

- (c) an offence involving taking, damaging, destroying, removing, using, interfering with or entering property;
- (d) an offence involving a weapon.

relevant Code or weapons offence means—

- (a) an offence against any of the following provisions of the Criminal Code—
 - (i) section 69(1);
 - (ii) section 328A(1);
 - (iii) section 335(1);
 - (iv) section 339(1);
 - (v) section 408A(1);
 - (vi) section 419(1); or
- (b) an offence against the *Weapons Act 1990*, section 51(1).

8 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

journalist see the *Evidence Act 1977*, section 14R.

Division 2 Vehicle and advertising-related offending

Subdivision 1 Amendment of Criminal Code

9 Code amended

This subdivision amends the Criminal Code.

[s 10]

10 Amendment of s 1 (Definitions)

Section 1—

insert—

emergency vehicle see section 6A.

emergency worker means—

- (a) a member of the police service; or
- (b) a member of the police service of the Commonwealth or another State; or
- (c) a service officer under the *Ambulance Service Act 1991*; or
- (d) a member of an ambulance service of another State; or
- (e) a fire service officer or rural fire brigade member under the *Fire and Emergency Services Act 1990*; or
- (f) a member of a fire brigade or service of another State; or
- (g) an SES member under the *Fire and Emergency Services Act 1990*.

11 Insertion of new s 6A

After section 6—

insert—

6A Meaning of *emergency vehicle* and related matters

(1) In this Code—

emergency vehicle means—

- (a) a motor vehicle being used by an emergency worker in the course of their duties; or

-
- (b) a motor vehicle ordinarily used by emergency workers in the course of their duties.
- (2) For a proceeding against a person (the ***first person***) for an offence involving an emergency vehicle, the first person is taken to know a motor vehicle is an emergency vehicle, unless the first person proves otherwise, if—
- (a) the vehicle bears the insignia of an emergency services entity or is otherwise clearly marked as a type of emergency vehicle; or
- (b) the vehicle is displaying flashing blue and red lights or a flashing blue light; or
- (c) a person who is inside, or emerges from, the vehicle identifies themselves to the first person as a type of emergency worker.
- (3) Subsection (2) does not limit the circumstances in which a person may know, or a person ought reasonably to know, a vehicle is an emergency vehicle.
- (4) In this section—
- emergency services entity*** means any of the following entities of Queensland, the Commonwealth or another State—
- (a) a police service;
- (b) an ambulance service;
- (c) a fire brigade, fire service or State emergency service.

12 Amendment of s 69 (Going armed so as to cause fear)

- (1) Section 69—

insert—

[s 13]

(2A) If the offender publishes material on a social media platform or an online social network to—

- (a) advertise the offender’s involvement in the offence; or
- (b) advertise the act or omission constituting the offence;

the offender is liable to imprisonment for 3 years.

(2) Section 69—

insert—

(4) In this section—

advertise means attract the notice and attention of the public or a limited section of the public.

material includes an electronic document.

(3) Section 69(2A) to (4)—

renumber as section 69(3) to (5).

13 Amendment of s 328A (Dangerous operation of a vehicle)

(1) Section 328A—

insert—

(1A) If the offender publishes material on a social media platform or an online social network to—

- (a) advertise the offender’s involvement in the offence; or
- (b) advertise the act or omission constituting the offence;

the offender commits a crime.

Maximum penalty—400 penalty units or 5 years imprisonment.

(2) Section 328A(4)(a)—

omit, insert—

-
- (a) to imprisonment for 14 years, if none of paragraphs (b) to (d) applies; or
- (3) Section 328A(4)(b) and (c), ‘14 years’—
omit, insert—
20 years
- (4) Section 328A(4)—
insert—
- (d) to imprisonment for 20 years if, before or while committing the offence, the offender commits an offence against the *Police Powers and Responsibilities Act 2000*, section 754(2).
- (5) Section 328A(6)—
insert—

advertise means attract the notice and attention of the public or a limited section of the public.

material includes an electronic document.

14 Insertion of new ss 328C and 328D

After section 328B—

insert—

328C Damaging emergency vehicle when operating motor vehicle

A person commits a crime if—

- (a) the person operates a motor vehicle in a way that damages an emergency vehicle; and
- (b) the person knows, or ought reasonably to know, the damaged vehicle is an emergency vehicle; and
- (c) the person—

[s 15]

- (i) intends to damage the emergency vehicle or to injure or endanger the safety of an emergency worker; or
- (ii) knows, or ought reasonably to know, the person is operating a motor vehicle in a way that will damage an emergency vehicle.

Maximum penalty—14 years imprisonment.

328D Endangering police officer when driving motor vehicle

- (1) A person commits a crime if—
 - (a) the person drives a motor vehicle towards or near a police officer; and
 - (b) the person knows, or ought reasonably to know, the officer is a police officer; and
 - (c) the officer is acting in the performance of their duties as a police officer; and
 - (d) the person—
 - (i) intends to injure or endanger the safety of the police officer; or
 - (ii) endangers the safety of the police officer and knows, or ought reasonably to know, the person is endangering the safety of the police officer.

Maximum penalty—14 years imprisonment.

- (2) In this section—

police officer includes a police officer of the Commonwealth or another State.

15 Amendment of s 335 (Common assault)

- (1) Section 335—

insert—

(1A) If the offender publishes material on a social media platform or an online social network to—

- (a) advertise the offender’s involvement in the offence; or
- (b) advertise the act or omission constituting the offence;

the offender is liable to imprisonment for 4 years.

(2) Section 335(2), after ‘provisions’—

insert—

also

(3) Section 335—

insert—

(4) In this section—

advertise means attract the notice and attention of the public or a limited section of the public.

material includes an electronic document.

(4) Section 335(1A) to (4)—

renumber as section 335(2) to (5).

16 Amendment of s 339 (Assaults occasioning bodily harm)

(1) Section 339—

insert—

(1A) If the offender publishes material on a social media platform or an online social network to—

- (a) advertise the offender’s involvement in the offence; or
- (b) advertise the act or omission constituting the offence;

the offender is liable to imprisonment for 9 years.

[s 17]

(2) Section 339—

insert—

(6) In this section—

advertise means attract the notice and attention of the public or a limited section of the public.

material includes an electronic document.

(3) Section 339(1A) to (6)—

renumber as section 339(2) to (7).

17 **Amendment of s 408A (Unlawful use or possession of motor vehicles, aircraft or vessels)**

(1) Section 408A—

insert—

(1CA) If—

(a) the motor vehicle, aircraft or vessel is an emergency vehicle; and

(b) the offender knows, or ought reasonably to know, it is an emergency vehicle;

the offender is liable to imprisonment for 14 years.

(2) Section 408A(1D), '(1C)'—

omit, insert—

(5)

(3) Section 408A(1E), '(1D)'—

omit, insert—

(6)

(4) Section 408A(3), definition *material*—

omit, insert—

material includes an electronic document.

- (5) Section 408A(1A) to (3)—
renumber as section 408A(2) to (9).

18 Amendment of s 419 (Burglary)

- (1) Section 419—
insert—
- (3A) If the offender publishes material on a social media platform or an online social network to—
- (a) advertise the offender’s involvement in the offence; or
 - (b) advertise the act or omission constituting the offence;
- the offender is liable to imprisonment for 16 years.
- (2) Section 419—
insert—
- (7) In this section—
- advertise*** means attract the notice and attention of the public or a limited section of the public.
- material*** includes an electronic document.
- (3) Section 419(3A) to (7)—
renumber as section 419(4) to (8).

19 Amendment of s 427 (Unlawful entry of vehicle for committing indictable offence)

- Section 427—
insert—
- (3) If—
- (a) the vehicle is an emergency vehicle; and

[s 20]

- (b) the offender knows, or ought reasonably to know, the vehicle is an emergency vehicle;
the offender is liable to imprisonment for 14 years.

20 Amendment of s 469 (Wilful damage)

Section 469, punishment in special cases—

insert—

12 Emergency vehicles

If—

- (a) the property in question is an emergency vehicle; and
- (b) the offender knows, or ought reasonably to know, the property is an emergency vehicle;
the offender commits a crime.

Maximum penalty—7 years imprisonment.

Subdivision 2 Amendment of Criminal Code (other commencement)

21 Code amended

This subdivision amends the Criminal Code.

22 Amendment of s 1 (Definitions)

Section 1, definition *emergency worker*, paragraph (g), ‘*Fire and Emergency Services Act 1990*’—

omit, insert—

State Emergency Service Act 2024

23 Amendment of s 1 (Definitions)

Section 1, definition *emergency worker*, paragraph (g)—
omit.

**Subdivision 3 Amendment of Disaster
Management and Other Legislation
Amendment Act 2024**

24 Act amended

This subdivision amends the *Disaster Management and Other
Legislation Amendment Act 2024*.

Editor's note

The legislation ultimately amended is the Criminal Code.

25 Amendment of sch 1 (Other amendments)

Schedule 1—

insert—

Criminal Code

**Section 1, definition *emergency worker*,
paragraph (e), ‘*Fire and Emergency Services
Act 1990*’—**

omit, insert—

Fire Services Act 1990

[s 26]

Division 3 Prevention of knife crime (Jack’s law)

Subdivision 1 Amendment of Police Powers and Responsibilities Act 2000

26 Act amended

This subdivision amends the *Police Powers and Responsibilities Act 2000*.

27 Amendment of s 30 (Prescribed circumstances for searching persons without warrant)

Section 30(1)(l), after ‘39F’—

insert—

, 39FA, 39FB

28 Amendment of ch 2, pt 3A, hdg (Jack’s Law—Use of hand held scanners without warrant in safe night precincts and public transport stations)

Chapter 2, part 3A, heading, ‘safe night precincts and public transport stations’—

omit, insert—

particular places

29 Amendment of s 39A (Definitions for part)

(1) Section 39A—

insert—

adjacent public area, to premises, a facility or another place, means—

- (a) a public carpark adjacent to the premises, facility or other place; or
- (b) a public place adjacent to an entry or exit to the premises, facility or other place.

Example—

a public footpath on which persons are queuing to enter the premises

licensed premises includes an adjacent public area to the premises.

public carpark means a carpark that is a public place.

retail premises—

- (a) means premises used wholly or predominantly for carrying on a business selling goods, or providing services, in person to the public; and
- (b) includes an adjacent public area to premises mentioned in paragraph (a).

shopping centre—

- (a) means a cluster of at least 5 premises to which the following apply—
 - (i) at least 5 of the premises are retail premises;
 - (ii) the retail premises are located in—
 - (A) 1 building; or
 - (B) 2 or more buildings that are adjoining or are separated only by a public place;
 - (iii) the cluster of premises is promoted, or generally regarded, as constituting a shopping centre, shopping mall, shopping court or shopping arcade; and

[s 30]

- (b) includes an adjacent public area to premises mentioned in paragraph (a).

sporting or entertainment venue—

- (a) means—
- (i) a major sports facility under the *Major Sports Facilities Act 2001*; or
- (ii) another place while it is being used for a sporting, recreation, conference or entertainment event; and

Examples—

- a community sporting facility being used for a football match
- a building being used for a conference event
- a park being used for a concert
- a road being used for a running or motor racing event

- (b) includes an adjacent public area to a facility or place mentioned in paragraph (a).

- (2) Section 39A, definition *hand held scanner authority*, ‘39C(4)’—

omit, insert—

39C(6)

30 Amendment of s 39C (Use of hand held scanner authorised by senior police officer)

- (1) Section 39C(1)—

omit, insert—

- (1) A senior police officer may authorise the use of a hand held scanner at, in or on any of the following places (each a ***relevant place***)—
- (a) a stated safe night precinct;

- (b) a stated public transport station and public transport vehicles travelling to and from the station;
- (c) trains or light rail vehicles travelling on a stated rail line and public transport stations along the line;
- (d) stated licensed premises;
- (e) stated retail premises;
- (f) a stated shopping centre;
- (g) a stated sporting or entertainment venue.

(2) Section 39C(2)—

insert—

- (d) for licensed premises that are not in a safe night precinct, shopping centre or sporting or entertainment venue—the senior police officer has reasonable grounds to believe an offence mentioned in paragraph (a) may be committed again at the premises in the next 6 months; and
- (e) for retail premises that are not in a safe night precinct, shopping centre or sporting or entertainment venue—
 - (i) ordinarily, at least 2 days each week, the premises are open for business at a time between midnight and 5a.m.; or
 - (ii) in the previous 6 months, at least 2 offences were committed at the premises by a person armed with a knife or other weapon.

(3) Section 39C(3), ‘subsection (1)’—

omit, insert—

subsection (1)(b)

(4) Section 39C—

[s 31]

insert—

(3A) An authority may be issued under subsection (1)(c) in relation to—

- (a) a whole rail line, from the railway station at one end of the line to the railway station at the other end of the line; or
- (b) a part of a rail line, from one railway station on the line to another railway station on the line.

(3B) For subsection (2), an offence is committed *at* a relevant place that is licensed premises or retail premises if the offence is committed at, or in the immediate vicinity of, the premises.

(5) Section 39C(3A) to (4)—

renumber as section 39C(4) to (6).

31 Amendment of s 39D (Form and effect of hand held scanner authority)

Section 39D(1)(b)—

insert—

- (iii) for a hand held scanner authority issued for a rail line—the railway stations at each end of the rail line, or at each end of the part of the rail line, for which the authority is issued;
- (iv) for a hand held scanner authority issued for a place mentioned in section 39C(1)(d) to (g)—the address of the place.

32 Insertion of new ss 39FA to 39FC

After section 39F—

insert—

39FA Authorised use of hand held scanner without warrant on rail line

- (1) This section applies if a hand held scanner authority is in effect for a rail line or part of a rail line.
- (2) A police officer may, without a warrant, require a person to stop and submit to the use of a hand held scanner—
 - (a) in a public place at a public transport station along the line or part of the line; or
 - (b) on board a train or light rail vehicle while the vehicle is travelling on the rail line or part of the line.
- (3) If a police officer starts to exercise a power in relation to a person under this section or section 39G while on board a train or light rail vehicle travelling on the rail line or part of the line, the police officer may continue to exercise the power in relation to the person, even if the vehicle travels onto another rail line or another part of the rail line.

39FB Authorised use of hand held scanner without warrant at other places

- (1) This section applies if a hand held scanner authority is in effect for any of the following (the *relevant place*)—
 - (a) licensed premises;
 - (b) retail premises;
 - (c) a shopping centre;
 - (d) a sporting or entertainment venue.
- (2) A police officer may, without a warrant, require a person to stop and submit to the use of a hand held scanner—

[s 33]

- (a) in a public place at the relevant place; or
 - (b) in a public place at a public transport station in or connected to the relevant place.
- (3) To remove any doubt, it is declared that the hand held scanner authority issued for the relevant place does not authorise the use of a hand held scanner on board a public transport vehicle that is at the relevant place.

39FC Notice to manager or occupier of premises

- (1) Before a police officer starts making requirements of persons under section 39FB(2), the officer or another officer must, if practicable, notify a manager or occupier of the relevant place, orally or in writing, of the following—
- (a) that a hand held scanner authority is in effect for the place;
 - (b) the time for which the authority has effect;
 - (c) the power given to a police officer under section 39FB(2).

Example—

It may not be practicable to notify a manager or occupier of a large shopping centre if the centre management is closed.

- (2) A failure to comply with subsection (1) does not affect the lawfulness of a requirement made under section 39FB(2) or any other thing done under this part.

33 Amendment of s 39G (Requirements if hand held scanner indicates metal)

Section 39G(2), note 1, ‘section 39F(3)’—

omit, insert—

sections 39F(3) and 39FA(3)

34 Amendment of s 39I (Meaning of *hand held scanner information notice*)

Section 39I(a)—

omit, insert—

- (a) the person is—
 - (i) in a public place in a safe night precinct; or
 - (ii) in a public place at a public transport station; or
 - (iii) on board a public transport vehicle within 1 scheduled stop of a particular public transport station; or
 - (iv) on board a train or light rail vehicle travelling on a particular rail line; or
 - (v) in a public place at licensed premises; or
 - (vi) in a public place at retail premises; or
 - (vii) in a public place at a shopping centre; or
 - (viii) in a public place at a sporting or entertainment venue; and

35 Amendment of s 39J (Notice of hand held scanner authority to be published)

(1) Section 39J(2)(a)—

omit, insert—

- (a) the relevant details under section 39D(1)(b)(i) to (iv) of the place for which the authority is issued; and

(2) Section 39J(2)(c)—

insert—

[s 36]

- (iii) if the authority applied to licensed premises to which section 39C(2)(d) applies—the grounds on which the senior police officer held the belief mentioned in that paragraph; and
- (iv) if the authority applied to retail premises to which section 39C(2)(e) applies—the offences mentioned in section 39C(2)(e)(ii) that were known to the senior police officer.

36 Amendment of s 39L (Expiry of particular provisions)

(1) Section 39L, ‘30 April 2025’—

omit, insert—

30 October 2026

(2) Section 39L(c)—

insert—

- *adjacent public area*
- *licensed premises, paragraph (c)*
- *public carpark*
- *retail premises*
- *shopping centre*
- *sporting or entertainment venue*

37 Amendment of s 808C (Annual report to include information about authorisation of hand held scanners)

Section 808C(1)(b), ‘and public transport stations’—

omit, insert—

, public transport stations and rail lines, and the addresses of the licensed premises, retail premises, shopping centres and sporting or entertainment venues,

38 Amendment of sch 6 (Dictionary)

(1) Schedule 6—

insert—

adjacent public area, for chapter 2, part 3A, see section 39A.

public carpark, for chapter 2, part 3A, see section 39A.

retail premises, for chapter 2, part 3A, see section 39A.

shopping centre, for chapter 2, part 3A, see section 39A.

sporting or entertainment venue, for chapter 2, part 3A, see section 39A.

(2) Schedule 6, definition *hand held scanner authority*, ‘39C(4)’—

omit, insert—

39C(6)

(3) Schedule 6, definition *licensed premises*—

insert—

(c) for chapter 2, part 3A, see section 39A.

Subdivision 2 Amendment of Weapons Act 1990

39 Act amended

This subdivision amends the *Weapons Act 1990*.

40 Amendment of s 51 (Possession of a knife in a public place or a school)

(1) Section 51(1), penalty—

omit, insert—

[s 40]

Maximum penalty—

- (a) for a first offence—50 penalty units or 18 months imprisonment; or
- (b) for a second or later offence—100 penalty units or 2 years imprisonment.

(2) Section 51—

insert—

(1A) If the offender publishes material on a social media platform or an online social network to—

- (a) advertise the offender’s involvement in the offence; or
- (b) advertise the act or omission constituting the offence;

the offender is liable to a maximum penalty of—

- (c) for a first offence—100 penalty units or 2 years imprisonment; or
- (d) for a second or later offence—150 penalty units or 30 months imprisonment.

(3) Section 51(2), example for subsection (2)(a), ‘subsection (2)(a)’—

omit, insert—

paragraph (a)

(4) Section 51(2), example for subsection (2)(b), ‘subsection (2)(b)’—

omit, insert—

paragraph (b)

(5) Section 51(2), example for subsection (2)(c), ‘subsection (2)(c)’—

omit, insert—

paragraph (c)

-
- (6) Section 51(2), example for subsection (2)(d), ‘subsection (2)(d)’—

omit, insert—

paragraph (d)

- (7) Section 51(7)—

insert—

advertise means attract the notice and attention of the public or a limited section of the public.

material includes an electronic document.

- (8) Section 51(1A) to (7)—

renumber as section 51(2) to (8).

Division 4 Weapons safety

Subdivision 1 Amendment of Explosives Act 1999

41 Act amended

This subdivision amends the *Explosives Act 1999*.

42 Insertion of new s 43A

After section 43—

insert—

43A Requirement to check licence or authority for sale of small arms ammunition

- (1) This section applies to a person who sells an explosive that is small arms ammunition (a ***seller***) to another person (a ***buyer***) if the buyer holds—
- (a) a license under the *Weapons Act 1990* that authorises the buyer to possess and use a firearm; or

[s 42]

- (b) an interstate firearms authority that is taken, under the *Weapons Act 1990*, section 32(2), to authorise the buyer to possess and use a firearm; or
 - (c) an authority under this Act that authorises the buyer to sell, store or use small arms ammunition.
- (2) The seller must not sell the small arms ammunition to the buyer unless—
- (a) the seller has seen the buyer’s licence or authority; and
 - (b) if a verification system is prescribed by regulation for the licence or authority—
 - (i) if the verification system is available for use by the seller—the seller has verified the validity of the licence or authority using the verification system; or
 - (ii) if the verification system is not available for use by the seller—the seller has recorded the information required under subsection (3).

Maximum penalty—140 penalty units.

- (3) For subsection (2)(b)(ii), the following information must be recorded for each transaction for the sale of the small arms ammunition to a buyer—
- (a) the date and time of the transaction;
 - (b) the type and quantity of the ammunition;
 - (c) the name and address of the buyer;
 - (d) the buyer’s licence number or authority number;
 - (e) the expiry date of the buyer’s licence or authority;

-
- (f) if the licence or authority is an interstate firearms authority—the state that issued the interstate firearms authority;
 - (g) if the verification system is not available for use by the seller in the circumstances mentioned in subsection (3B)(b)—
 - (i) the reason the seller is unable to access the internet, if known; and
 - (ii) the seller’s internet service provider.
- (3A) If a seller sells small arms ammunition to a buyer when a verification system prescribed under subsection (2)(b) is not available for use by the seller, the seller must—
- (a) as soon as practicable after the system becomes available for use by the seller, verify the validity of the licence or authority using the verification system; and
 - (b) if the verification system indicates the buyer’s licence or authority is not valid—immediately report the transaction to police.

Maximum penalty—140 penalty units.

- (3B) For this section, a verification system is not available for use by a seller if—
- (a) the system is not operational; or
 - (b) the seller is unable to access the internet because of an event out of the seller’s control.

Example for paragraph (b)—

a power outage that causes the seller’s internet to be inaccessible

- (4) In this section—

firearm see the *Weapons Act 1990*, schedule 2, definition *firearm*, paragraphs 1 and 2.

[s 43]

interstate firearms authority means a licence, permit or authority mentioned in the *Weapons Act 1990*, section 32(1).

verification system means an electronic system for verifying the validity of a licence or authority mentioned in subsection (1).

Subdivision 2 Amendment of Judicial Review Act 1991

43 Act amended

This subdivision amends the *Judicial Review Act 1991*.

44 Amendment of sch 2 (Decisions for which reasons need not be given)

Schedule 2, section 5A—

omit, insert—

5A Particular decisions under the Weapons Act 1990

- (1) Decisions relating to whether a person is a fit and proper person for the purposes of the *Weapons Act 1990* if the decision is made on the basis of—
 - (a) criminal intelligence; or
 - (b) other information mentioned in section 10B(1)(ca) or 10C(1) of that Act that is not publicly available.
- (2) Decisions under the *Weapons Act 1990*, part 5A relating to the making or review of a firearm prohibition order, if the decision is made on the basis of criminal intelligence.
- (3) In this section—

criminal intelligence see the *Weapons Act 1990*,

schedule 2.

Subdivision 3 Amendment of Police Powers and Responsibilities Act 2000

45 Act amended

This subdivision amends the *Police Powers and Responsibilities Act 2000*.

46 Amendment of s 715 (What is the appointed day for disposal of weapons under s 714)

(1) Section 715(b), before ‘3 months’—

insert—

the day that is

(2) Section 715—

insert—

(ba) for a weapon given to or seized by a police officer under the *Weapons Act 1990*, section 141W because a firearm prohibition order was made—the day that is 3 months after the day the order takes effect; or

(3) Section 715(ba) and (c)—

renumber as section 715(c) and (d).

47 Amendment of s 740 (Public interest monitor)

Section 740(1)—

insert—

(e) the making of firearm prohibition orders under the *Weapons Act 1990*, part 5A.

[s 48]

48 Amendment of s 742 (Monitor's functions)

Section 742(4)—

insert—

- (g) to gather statistical information about the use and effectiveness of firearm prohibition orders made under the *Weapons Act 1990*, part 5A;
- (h) to monitor compliance by police officers with the *Weapons Act 1990*, part 5A, division 4;
- (i) whenever the public interest monitor considers it appropriate—to give to the commissioner a report on noncompliance by police officers with the *Weapons Act 1990*, part 5A, division 4.

49 Amendment of s 743 (Monitor's annual report)

Section 743—

insert—

- (3BA) Also, a report relating to a year must include the following matters relating to firearm prohibition orders made under the *Weapons Act 1990*, part 5A—
 - (a) the number of firearm prohibition orders—
 - (i) made under section 141G of that Act during the year; or
 - (ii) made under section 141H of that Act during the year; or
 - (iii) revoked during the year under section 141G(5) or 141H(7) of that Act;
 - (b) the number of appeals started under part 5A, division 6 of that Act during the year against

-
- the making of a firearm prohibition order under section 141G of that Act;
- (c) the number of appeals started under part 5A, division 6 of that Act during the year against the making of a firearm prohibition order under section 141H of that Act;
 - (d) the number of charges made during the year for the following offences if the charge arises from a search under part 5A, division 4 of that Act—
 - (i) an offence under that Act;
 - (ii) an offence under another law;
 - (e) the number of firearms and firearm related items seized under part 5A, division 4 of that Act in the year;
 - (f) the number of firearms and firearm related items given to or seized by a police officer under section 141W of that Act in the year;
 - (g) the extent of compliance by the police service with part 5A, division 4 of that Act;
 - (h) the use of firearm prohibition orders generally.

50 Amendment of s 809 (Regulation-making power)

Section 809(2)(a)—

insert—

- (iv) other persons involved in the administration of this Act; or

51 Amendment of sch 1 (Acts not affected by this Act)

Schedule 1—

insert—

Weapons Act 1990, part 5A

52 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *enforcement act*, paragraph (h), after ‘warrant,’—

insert—

missing person warrant,

- (2) Schedule 6, definition *enforcement act*, paragraph (w)—

omit, insert—

(w) the removal of an entrant to a state building, or the prevention of an entrant to a state building from entering the state building, under section 557;

- (3) Schedule 6, definition *missing person warrant*, ‘, for chapter 7, part 3A,’—

omit.

- (4) Schedule 6, definition *responsibilities code*, from ‘prescribed’—

omit, insert—

and other persons involved in the administration of this Act prescribed by regulation.

Subdivision 4 Amendment of Weapons Act 1990

53 Act amended

This subdivision amends the *Weapons Act 1990*.

54 Insertion of new pt 1, div 1, hdg

Part 1, before section 1—

insert—

Division 1 Introduction

55 Insertion of new pt 1, div 2, hdg

Part 1, after section 4—

insert—

Division 2 Interpretation

56 Insertion of new ss 5A–5D

After section 5—

insert—

5A Meaning of *class A serious offence*

(1) A *class A serious offence* is—

- (a) an offence against any of the following provisions of the Criminal Code—
 - (i) section 302;
 - (ii) section 303;
 - (iii) section 320;
 - (iv) section 323;
 - (v) section 409, if—
 - (A) the offender is or pretends to be armed with any dangerous or offensive weapon or instrument;
or
 - (B) at or immediately before or immediately after the time of the robbery, the offender wounds or uses any other personal violence to any person; or
- (b) an offence under a law of another jurisdiction that, if it had been committed in

[s 56]

Queensland, would have constituted an offence mentioned in paragraph (a).

- (2) An offence against a provision of the Criminal Code mentioned in subsection (1)(a) is a *class A serious offence* regardless of whether the provision has been amended from time to time or numbered differently.

5B Meaning of *class B serious offence*

- (1) A *class B serious offence* is—
 - (a) an offence against a provision of an Act mentioned in schedule 1AA subject to any circumstance, stated for the offence in the schedule, that applies to the offence; or
 - (b) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a).
- (2) An offence against a provision of an Act mentioned in schedule 1AA is a *class B serious offence* regardless of whether the provision has been amended from time to time or numbered differently.

5C Meaning of *class C serious offence*

- (1) A *class C serious offence* is an offence under a law of Queensland or another jurisdiction that—
 - (a) relates to the misuse of drugs; or
 - (b) involves the use or threatened use of violence; or
 - (c) involves the carriage, discharge, possession or use of a weapon.
- (2) However, an offence is not a *class C serious offence* if it is a class A serious offence or a class

B serious offence.

5D Meaning of *disqualified person*

- (1) A *disqualified person* is a person who—
 - (a) is a reportable offender under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*; or
 - (b) is or has been subject to a firearm prohibition order made under section 141H; or
 - (c) is or has been subject to an order made under a law of another jurisdiction that corresponds to a firearm prohibition order; or
 - (d) is or has been subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; or
 - (e) has been convicted of a serious violent offence under the *Penalties and Sentences Act 1992*, section 161A.
- (2) However—
 - (a) a person who is or has been subject to an order mentioned in subsection (1)(b) or (c) is not a *disqualified person* if, when the order was made, the person was a child; and
 - (b) a person who has been subject to an order mentioned in subsection (1)(b), (c) or (d) is not a *disqualified person* if the decision to make the order was revoked or set aside on review or appeal.

57 Amendment of s 10 (Limitations on issue of licence)

Section 10(2)(e)—

[s 58]

insert—

Note—

See also sections 10B and 10C.

58 Amendment of s 10B (Fit and proper person—licensees)

Section 10B(2) to (5)—

omit, insert—

- (2) Subsections (3) to (5) apply in relation to the issue, renewal or revocation of a licence.
- (3) A person is not a fit and proper person to hold or continue to hold the licence if the person—
 - (a) is a disqualified person; or
 - (b) is prevented by an order of a court, other than a temporary protection order, from holding or obtaining a licence or possessing a weapon.
- (4) A person is not a fit and proper person to hold or continue to hold the licence if, within 10 years before the relevant day, the person—
 - (a) has been convicted of a class A serious offence or a class B serious offence; or
 - (b) has been released from lawful custody in relation to a conviction for a class A serious offence or a class B serious offence; or
 - (c) has been subject to a supervision order in relation to a conviction for a class A serious offence or a class B serious offence.
- (5) A person is not a fit and proper person to hold or continue to hold the licence if, within 5 years before the relevant day—
 - (a) the person—
 - (i) has been convicted of a class C serious offence; or

- (ii) has been released from lawful custody in relation to a conviction for a class C serious offence; or
 - (iii) has been subject to a supervision order in relation to a conviction for a class C serious offence; or
- (b) a domestic violence order, other than a temporary protection order, has been made against the person.
- (6) Also, for the issue, renewal, suspension or revocation of a dealer's licence, a person is not, or is no longer, a fit and proper person to hold or continue to hold the licence unless each associate of the person is a fit and proper person to be an associate of a licensed dealer under section 10C.
- (7) For subsections (4) and (5), the conviction—
 - (a) must be a recorded conviction; and
 - (b) may be a spent conviction.
- (8) In this section—

court means—

 - (a) the Magistrates Court or another Queensland court; or
 - (b) a court of another jurisdiction.

relevant day means—

 - (a) in relation to the issue or renewal of a licence—the day the application for the issue or renewal of the licence is made; or
 - (b) in relation to the revocation of a licence—the day the licensee is given a revocation notice under section 29 for the revocation.

[s 59]

59 Amendment of s 10C (Fit and proper person—licensed dealer’s associate)

Section 10C(2) and (3)—

omit, insert—

- (2) A person is not a fit and proper person to be an associate of a licensed dealer if—
 - (a) the person is a disqualified person; or
 - (b) within 10 years before the relevant day, the person—
 - (i) has been convicted of a class A serious offence or a class B serious offence; or
 - (ii) has been released from lawful custody in relation to a conviction for a class A serious offence or a class B serious offence; or
 - (iii) has been subject to a supervision order in relation to a conviction for a class A serious offence or a class B serious offence.
- (3) Also, a person is not a fit and proper person to be an associate of a licensed dealer if an authorised officer is satisfied that any relationship involving weapons between the person and the applicant or licensed dealer would be contrary to the public interest because—
 - (a) within 5 years before the relevant day, the person—
 - (i) has been convicted of a class C serious offence; or
 - (ii) has been released from lawful custody in relation to a conviction for a class C serious offence; or

- (iii) has been subject to a supervision order in relation to a conviction for a class C serious offence; or
- (b) a domestic violence order, other than a temporary protection order, has been made against the person.
- (4) For subsections (2) and (3)(a), the conviction—
 - (a) must be a recorded conviction; and
 - (b) may be a spent conviction.
- (5) In this section—

relevant day means—

 - (a) in relation to the issue or renewal of a dealer’s licence—the day an application for the issue or renewal of the licence is made; or
 - (b) in relation to the suspension of a dealer’s licence—the day the licensee is given a suspension notice under section 28 for the suspension; or
 - (c) in relation to the revocation of a dealer’s licence—the day the licensee is given a revocation notice under section 29 for the revocation.

60 Amendment of s 15 (Authorised officer decides application)

Section 15(6)(a), ‘section 10B(2)—until the day section 10B(2)’—

omit, insert—

section 10B(3), (4) or (5)—until the day the section

[s 61]

61 Amendment of s 18 (Renewal of licences)

Section 18(1A), ‘before’—

omit, insert—

on or before

62 Amendment of s 24 (Change in licensee’s circumstances)

Section 24(2)(a)—

omit, insert—

(a) any of the following events—

- (i) a change of address for the licensee or the licensee’s representative;
- (ii) a change in the mental or physical fitness of the licensee or the licensee’s representative;
- (iii) the licensee or the licensee’s representative is charged with, or convicted of, a serious offence;
- (iv) a domestic violence order is made against the licensee or the licensee’s representative;
- (v) the licensee or the licensee’s representative becomes a disqualified person; or

63 Amendment of s 27B (Notice of intention to revoke because dealer’s associate is not fit and proper)

Section 27B(1)—

insert—

Note—

See also sections 10B and 10C.

64 Amendment of s 28 (Suspension of licence by giving suspension notice)

(1) Section 28(1)(a)(i)—

omit, insert—

(i) has been charged with a serious offence; or

(2) Section 28(1)(b), note—

omit, insert—

Note—

See also sections 10B and 10C.

65 Amendment of s 29 (Revocation of licence by giving revocation notice)

Section 29(1)(d), note—

omit, insert—

Note—

See sections 10B and 10C.

66 Amendment of s 29B (Arrangements for surrender of suspended or revoked licences and weapons)

(1) Section 29B(8), definition *approved receipt*—

omit.

(2) Section 29B(8), definition *otherwise surrender*, paragraph (b), ‘approved receipt’—

omit, insert—

transaction notification

(3) Section 29B(8), definition *otherwise surrender*, paragraphs (b) and (c), ‘the receipt’—

omit, insert—

the transaction notification

[s 67]

67 Amendment of s 32 (Temporary recognition of interstate licences for particular purposes)

Section 32(2), ‘licence’—

omit, insert—

licence, permit or authority

68 Amendment of s 50 (Possession of weapons)

Section 50, after subsection (1)—

insert—

(1AA) However, subsection (1) does not apply if—

- (a) the weapon is a firearm within the meaning of part 5A; and
- (b) the person is subject to a firearm prohibition order.

Note—

See section 141Y for offences relating to the possession of a firearm by a person subject to a firearm prohibition order.

69 Amendment of s 53 (An unlicensed person may use a weapon at an approved range)

(1) Section 53—

insert—

(6A) For subsection (8), definition *excluded person*, paragraphs (b), (c) and (d), it is irrelevant whether or not the conviction is a spent conviction, provided the conviction is recorded.

(2) Section 53(7), definition *excluded person*, paragraphs (a) and (b)—

omit, insert—

- (a) who is a disqualified person; or

-
- (b) who has a conviction for a class A serious offence; or
 - (ba) who, within 10 years before the day the person signs the approved form under this section—
 - (i) has been convicted of a class B serious offence; or
 - (ii) has been released from lawful custody in relation to a conviction for a class B serious offence; or
 - (iii) has been subject to a supervision order in relation to a conviction for a class B serious offence; or
 - (bb) who, within 5 years before the day the person signs the approved form under this section—
 - (i) has been convicted of a class C serious offence; or
 - (ii) has been released from lawful custody in relation to a conviction for a class C serious offence; or
 - (iii) has been subject to a supervision order in relation to a conviction for a class C serious offence; or
- (3) Section 53(7), definition *excluded person*, paragraphs (c), (f) and (g), ‘in the 5 year period immediately’—
omit, insert—
within 5 years
- (4) Section 53(7), definition *excluded person*, paragraphs (ba) to (h)—
renumber as paragraphs (c) to (j).
- (5) Section 53(6A) and (7)—
renumber as section 53(7) and (8).

[s 70]

70 Amendment of s 67 (Possessing and acquiring restricted items)

(1) Section 67—

insert—

(1A) However, subsection (1) does not apply if—

- (a) the restricted item is a replica of a firearm;
and
- (b) the person is subject to a firearm prohibition order.

Note—

See section 141Y for offences relating to the acquisition or possession of a firearm by a person subject to a firearm prohibition order.

(2) Section 67(6), ‘Subsections (3) to (5)’—

omit, insert—

Subsections (4) to (6)

(3) Section 67(7), ‘subsection (8)’—

omit, insert—

subsection (9)

(4) Section 67(1A) to (8)—

renumber as section 67(2) to (9).

71 Amendment of s 93 (How to decide whether an individual is an appropriate person)

Section 93—

insert—

(3) In this section—

criminal history, of a person, means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than a spent conviction.

72 Amendment of s 124 (Training courses for security guards)

Section 124(2) and (3)—

omit, insert—

- (2) If a person who holds a security licence (guard) intends to renew the licence, the person must complete an approved safety training course (security guard) within the period prescribed by regulation.

73 Insertion of new pt 5A

After part 5—

insert—

Part 5A Firearm prohibition orders

Division 1 Preliminary

141C Purpose of part

The purpose of this part is to provide for the making of firearm prohibition orders in order to—

- (a) promote public safety and security; and
- (b) disrupt and deter firearm related crime, including reducing the risk of firearms being used in the commission of offences.

141D Definitions for part

In this part—

court means—

[s 73]

- (a) in relation to a firearm prohibition order in relation to a child—the Childrens Court constituted by a Childrens Court magistrate; or
- (b) otherwise—the Magistrates Court.

criminal history, of a person, means the convictions, including spent convictions, whether or not recorded, against the person for offences in Queensland or elsewhere.

firearm includes an antique firearm and a replica of a firearm.

firearm prohibition order means a firearm prohibition order under section 141G or 141H.

firearm related item means—

- (a) ammunition; or
- (b) a magazine for a firearm; or
- (c) a silencer or another device or thing that is made or used, is capable of being used or is intended to be used for reducing the sound caused by discharging a firearm; or
- (d) another thing prescribed by regulation to be a firearm related item.

Division 2 Making firearm prohibition orders

Subdivision 1 Considerations for making firearm prohibition orders

141E Matters to consider for making firearm prohibition orders—adults

- (1) This section applies if the commissioner or the

court is considering whether it is in the public interest to make a firearm prohibition order in relation to an adult.

(2) The commissioner or the court may have regard to the following—

(a) the individual's criminal history;

(b) the individual's domestic violence history, including whether the individual—

(i) is or has been subject to a domestic violence order; or

(ii) is or has been named as a respondent in an application for a domestic violence order;

(c) whether the individual is or has been a participant in—

(i) a criminal organisation; or

(ii) a terrorist organisation;

(d) whether the individual is an associate of a recognised offender;

(e) whether the individual has communicated in a public forum, or to another person, that the individual intends or wishes to commit a serious offence;

Examples of public forums—

social media sites, online forums

(f) whether the individual is or has been subject to a relevant order made by a court and the circumstances surrounding the making of the order;

Examples of relevant court orders—

- a control order under the Criminal Code (Cwlth)

[s 73]

- an order made by a court under the *Dangerous Prisoners (Sexual Offenders) Act 2003*
- (g) the individual's behaviour, particularly violent or aggressive behaviour or behaviour involving the use of a weapon;
- (h) the risk the individual poses to public safety or security, and the extent to which making the firearm prohibition order will reduce the risk;
- (i) any other matter or information that indicates possession of a firearm or firearm related item by the individual would be likely to pose a risk to public safety or security.
- (3) In considering a matter under subsection (2), the commissioner or the court may have regard to criminal intelligence.
- (4) For this section, an individual is an associate of a recognised offender if the individual—
- (a) has a romantic or familial relationship with the offender; or
 - (b) associates with the offender in a way that involves seeking out or accepting the offender's company, whether the association happens in person or in another way, including, for example, electronically.
- (5) In this section—
- criminal organisation*** see the *Penalties and Sentences Act 1992*, section 161O.
- recognised offender*** see the Criminal Code, section 77.
- terrorist organisation*** see the Criminal Code (Cwlth), section 102.1(1).

141F Matters to consider for making firearm prohibition orders—children

- (1) This section applies if the commissioner or the court is considering whether it is in the public interest to make a firearm prohibition order in relation to a child.
- (2) The commissioner or the court must have regard to the following matters—
 - (a) the desirability of strengthening and preserving the relationship between the child and their parents and family;
 - (b) the desirability of not interrupting or disturbing the child’s living arrangements, education, training or employment;
 - (c) the desirability of minimising adverse effects on the child’s reputation that may arise from making the firearm prohibition order;
 - (d) the age and maturity of the child.
- (3) Also, the commissioner or the court may have regard to the following—
 - (a) the child’s criminal history;
 - (b) the child’s behaviour, particularly violent or aggressive behaviour, behaviour that constitutes domestic and family violence or behaviour involving the use of a weapon;
 - (c) the risk the child poses to public safety or security, and the extent to which making the firearm prohibition order will reduce the risk;
 - (d) any other matter or information that indicates possession of a firearm or firearm related item by the child would be likely to pose a risk to public safety or security.

[s 73]

- (4) In considering a matter under subsection (3), the commissioner or the court may have regard to criminal intelligence.

Subdivision 2 Making of firearm prohibition orders

141G Commissioner may make firearm prohibition orders

- (1) The commissioner may make a firearm prohibition order prohibiting an individual from acquiring, possessing or using, or attempting to acquire, possess or use, a firearm or firearm related item.
- (2) However, the commissioner may make the firearm prohibition order only if satisfied it is in the public interest to do so.
- (3) Also, the commissioner may make the firearm prohibition order only if the individual is 14 years or older.
- (4) The firearm prohibition order has effect for the period, of not more than 60 days, stated in the order.

Note—

For when a firearm prohibition order takes effect, see section 141J.

- (5) The commissioner may revoke a firearm prohibition order made by the commissioner at any time.

141H Court may make firearm prohibition orders

- (1) The court may make a firearm prohibition order prohibiting an individual from acquiring, possessing or using, or attempting to acquire,

possess or use, a firearm or firearm related item.

(2) The court may make the firearm prohibition order—

(a) on the court's own initiative; or

Example for paragraph (a)—

on the court's own initiative on the conviction of the individual for an offence

(b) on application by the commissioner under section 141M.

(3) However, the court may make the firearm prohibition order only if satisfied it is in the public interest to do so.

(4) Also, the court may make the firearm prohibition order only if the individual is 14 years or older.

(5) The firearm prohibition order has effect for the period of—

(a) if the individual is an adult—10 years; or

(b) if the individual is a child—5 years.

Note—

For when a firearm prohibition order takes effect, see section 141J.

(6) However, the firearm prohibition order may state that the order has effect for a shorter period if the court is satisfied the shorter period is appropriate in the circumstances, having regard to the risk the individual poses to public safety or security.

(7) The court may revoke a firearm prohibition order made by the court only if—

(a) the commissioner applies for the revocation; or

(b) the order is in relation to a child and has been reviewed under division 5.

141I Content of firearm prohibition orders

A firearm prohibition order must state the following—

- (a) information identifying the individual the subject of the order;
- (b) the day the order is made;
- (c) the period the order has effect;
- (d) the effect of division 3, including that a person may commit an offence and be subject to a penalty under that division;
- (e) that police may conduct searches under division 4;
- (f) that the individual may appeal against the decision to make the order;
- (g) how, and the period within which, the individual may appeal.

141J When firearm prohibition orders take effect

A firearm prohibition order in relation to an individual takes effect—

- (a) if the order is made by the court and the individual is present in court when the order is made—when the order is made; or
- (b) otherwise—when a police officer serves the order or a copy of the order on the individual under section 141P.

141K Parent and particular chief executives to be notified of orders in relation to children

- (1) This section applies if a firearm prohibition order takes effect in relation to a child.
- (2) A police officer must, as soon as reasonably practicable, notify the following persons of the

order—

- (a) a parent of the child, unless no parent of the child can be contacted after making all reasonable inquiries;
 - (b) the chief executive (communities) or a person, nominated by that chief executive for the purpose, who holds an office within the department for which the chief executive has responsibility;
 - (c) if the chief executive (child safety) has custody or guardianship of the child under the *Child Protection Act 1999*, that chief executive or a person, nominated by that chief executive for the purpose, who holds an office in the department for which the chief executive has responsibility.
- (3) If no parent of the child can be contacted after making all reasonable inquiries, a police officer must make a record of the inquiries made.
- (4) In this section—

chief executive (child safety) means the chief executive of the department in which the *Child Protection Act 1999* is administered.

chief executive (communities) means the chief executive of the department in which the *Youth Justice Act 1992* is administered.

parent—

- (a) means a parent within the meaning of the *Youth Justice Act 1992*, schedule 4; and
- (b) includes a person who is apparently a parent of a child.

[s 73]

141L Further firearm prohibition orders may be made

- (1) The expiry of a firearm prohibition order in relation to an individual does not prevent the commissioner or the court from making a further firearm prohibition order in relation to the individual.
- (2) Subsection (3) applies if an individual has been subject to a firearm prohibition order made by the commissioner within the previous 12 months.
- (3) Despite subsection (1), the commissioner may not make a further firearm prohibition order in relation to the individual unless the commissioner reasonably believes an application to the court for a firearm prohibition order in relation to the individual under section 141M may not be decided sufficiently quickly by the court to ensure public safety or security.
- (4) The commissioner must apply to the court for a firearm prohibition order in relation to the individual under section 141M within 3 business days after the day the further firearm prohibition order is made under subsection (3).

Subdivision 3 Applications to court for firearm prohibition orders

141M Applications to court by commissioner

- (1) The commissioner may apply to the court for a firearm prohibition order to be made in relation to an individual.
- (2) The application must state the following—
 - (a) information identifying the individual;

- (b) the reasons why the commissioner considers it is in the public interest to make the firearm prohibition order, including the facts and circumstances in support of the reasons;
 - (c) that the individual may respond to the application under section 141N;
 - (d) the commissioner's address for service of any response to the application;
 - (e) that if the individual does not appear at the hearing of the application, a firearm prohibition order may be made in the individual's absence;
 - (f) if the individual is subject to a firearm prohibition order made by the commissioner—that, unless the court orders otherwise, the order remains in effect until—
 - (i) a firearm prohibition order made by the court takes effect; or
 - (ii) if no firearm prohibition order is made by the court—the application is finally determined by the court or is withdrawn.
- (3) The application must be accompanied by any affidavit the commissioner intends to rely on at the hearing of the application.
- (4) The commissioner must give the individual a copy of the application and any accompanying affidavit as soon as reasonably practicable after the application is made.

141N Responses to applications

- (1) The individual may respond to the application by filing a response with the court.

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- (2) The response must—
 - (a) state the nature of the response; and
 - (b) state the facts and circumstances relied on by the individual in responding to the application; and
 - (c) be accompanied by any affidavit the individual intends to rely on at the hearing of the application.
- (3) The individual must, as soon as practicable after the response is filed, give the commissioner a copy of the response and any accompanying affidavit by leaving the documents at, or sending them to, the address for service stated in the application.

141O Continuation of firearm prohibition orders if application made to court

- (1) This section applies if, when the application is made, the individual is subject to a firearm prohibition order made by the commissioner.
- (2) Unless the court orders otherwise, the firearm prohibition order made by the commissioner continues in effect until—
 - (a) a firearm prohibition order made by the court takes effect; or
 - (b) if no firearm prohibition order is made by the court—the application is finally determined by the court or is withdrawn.
- (3) Subsection (2) applies despite section 141G(4).

Subdivision 4 Service of firearm prohibition orders and directions relating to service

141P Personal service of firearm prohibition orders

- (1) This section applies if a firearm prohibition order is made in relation to an individual—
 - (a) by the commissioner; or
 - (b) by the court and the individual is not present in court when the order is made.
- (2) A police officer must—
 - (a) serve the firearm prohibition order, or a copy of the order, personally on the individual the subject of the order; and
 - (b) tell the individual on whom the order or copy is served that the order is a firearm prohibition order.
- (3) However, if the individual does not accept the firearm prohibition order, the police officer may serve the order on the individual by—
 - (a) putting the order, or a copy of the order, down in the individual's presence; and
 - (b) telling the individual that the order is a firearm prohibition order.
- (4) If practicable, service under this section must be electronically recorded by a police officer.
- (5) In this section—

electronically recorded see the *Police Powers and Responsibilities Act 2000*, schedule 6.

141Q Power to give directions to facilitate personal service of firearm prohibition orders

- (1) This section applies if—
 - (a) a firearm prohibition order is made in relation to an individual—
 - (i) by the commissioner; or

[s 73]

- (ii) by the court and the individual is not present in court when the order is made; and
 - (b) a police officer reasonably suspects an individual is the individual the subject of the order.
- (2) A police officer may, for the purpose of enabling a police officer to serve the firearm prohibition order under section 141P, do any of the following—
 - (a) if it is necessary to confirm the identity of the individual—direct the individual—
 - (i) to state the individual’s name and address; and
 - (ii) to give evidence of the stated name and address if, in the circumstances, it would be reasonable to expect the individual to be in possession of the evidence;
 - (b) direct the individual to remain at a stated appropriate place at or near the individual’s current location for a stated period;
 - (c) direct the individual to attend a stated police station immediately or within a stated period;
 - (d) direct the individual to accompany a police officer to the nearest police station or another stated place.
- (2A) A direction under subsection (2) may be given only if the police officer considers it is reasonably necessary to enable service of the firearm prohibition order.
- (3) In giving the direction, the police officer must tell the individual the following matters—

- (a) why the individual is being given the direction;
- (b) if the direction is to accompany a police officer to a place—
 - (i) where the place is; and
 - (ii) how the individual is to move to the place, including whether a police officer will remain in the presence of the individual; and
 - (iii) that the individual may be searched before being transported to the place by a police officer; and
 - (iv) that the individual may be directed to leave, at the individual's current location, anything found in the search that may be used to cause harm to the individual or another person; and
 - (v) that anything found in the search may be seized if a police officer reasonably suspects the thing is evidence of the commission of an offence;
- (c) that the individual is not under arrest or in custody while complying with the direction.

141R Limits on directions

- (1) For a direction given under section 141Q(2)(b), the period an individual may be directed to remain at a place is—
 - (a) 1 hour; or
 - (b) a longer period, of not more than 2 hours, if the longer period is reasonably necessary in the circumstances for enabling service of a firearm prohibition order on the individual personally.

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- (2) For a direction given under section 141Q(2)(c) or (d), the stated place must be within a reasonable distance of the individual's current location, having regard to the particular circumstances.

141S Powers relating to particular directions

- (1) This section applies if—
 - (a) a police officer directs an individual under section 141Q(2)(d) to accompany a police officer to a place; and
 - (b) the individual is to be transported by a police officer to the place.
- (2) Before the individual is transported to the place, a police officer may—
 - (a) search the individual for anything in the individual's possession that may be used to cause harm to the individual or another person; and

Note—

See the *Police Powers and Responsibilities Act 2000*, chapter 20, part 3 for safeguards that apply to a search under this paragraph.

- (b) direct the individual to leave at the individual's current location a thing found in the search that may be used to cause harm to the individual or another person; and
 - (c) seize a thing found in the search that the police officer reasonably suspects is evidence of the commission of an offence.
- (3) A thing seized under subsection (2)(c) is, for the *Police Powers and Responsibilities Act 2000*, section 622, taken to have been seized under that Act.

141T Offence warning

- (1) A police officer giving a direction to an individual under section 141Q(2) or 141S(2)(b) must warn the individual—
 - (a) it is an offence not to comply with the direction unless the individual has a reasonable excuse; and
 - (b) the individual may be arrested for the offence.
- (2) The police officer must give the individual a reasonable opportunity to comply with the direction.
- (3) If the individual fails to comply with the direction, a police officer must, if practicable—
 - (a) repeat the warning mentioned in subsection (1); and
 - (b) give the individual a further reasonable opportunity to comply with the direction.

141U Offence to contravene direction

- (1) An individual must comply with a direction given to the individual under section 141Q(2) or 141S(2)(b) unless the individual has a reasonable excuse.
Maximum penalty—40 penalty units.
- (2) However, an individual does not commit an offence against subsection (1) unless—
 - (a) the individual is the individual the subject of the firearm prohibition order to which the direction relates and the order has not been served on the individual under section 141P; and

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- (b) the individual has been given a warning under section 141T(1) in relation to the direction.

Division 3 Effect of firearm prohibition orders and offences

141V Licences, permits and approvals automatically revoked if firearm prohibition order made

- (1) This section applies if a firearm prohibition order is made in relation to an individual.
- (2) A licence, permit or approval held by the individual is automatically revoked.
- (3) A licence, permit or approval held by a body, whether incorporated or unincorporated, is automatically revoked if the individual is the body's representative.
- (4) The revocation takes effect—
 - (a) if the firearm prohibition order is made by the court and the individual is present in court when the order is made—on the making of the order; or
 - (b) otherwise—when a police officer serves the order or a copy of the order on the individual under section 141P.
- (5) In this section—

approval means an approval granted by an authorised officer under this Act and in force at the material time.

permit means a permit issued under this Act and in force at the material time.

141W Surrender of authorities, firearms and firearm related items

- (1) This section applies to an individual the subject of a firearm prohibition order.
- (2) When the firearm prohibition order takes effect, the individual must immediately give to a police officer a relevant authority held by the individual that is in the individual's physical possession.

Maximum penalty—50 penalty units or 12 months imprisonment.

- (3) When the firearm prohibition order takes effect, the individual must also immediately give to a police officer any firearm or firearm related item the individual physically possesses.

Notes—

- 1 See section 141Y(1) and (2) for offences relating to the possession of a firearm or firearm related item by an individual subject to a firearm prohibition order.
 - 2 See also section 141Y(3) and (4).
- (4) If the individual can not immediately give a police officer a relevant authority held by the individual or a firearm or firearm related item in the individual's possession, a police officer may direct the individual—
 - (a) to give the authority, firearm or firearm related item to a police officer in a stated way and within a stated reasonable period of not more than 24 hours after the direction is given; or
 - (b) to give information about the location of the authority, firearm or firearm related item and any other information necessary to enable a police officer to locate and seize it; or

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- (c) to accompany a police officer to the location of the authority, firearm or firearm related item so it can be given to or seized by the police officer.

Example of when a firearm can not be immediately given—

A police officer serves a firearm prohibition order on an individual at a place that is not the individual's home and a firearm the individual possesses is stored at the individual's home.

- (5) The individual must comply with a direction given to the individual under subsection (4).

Maximum penalty—50 penalty units or 12 months imprisonment.

- (6) In this section, a reference to a relevant authority held by the individual includes—

(a) a reference to a relevant authority held by a body, whether incorporated or unincorporated, if the individual is the body's representative; and

(b) a reference to a relevant authority, including a relevant authority to which paragraph (a) applies, that has been automatically revoked under section 141V.

- (7) In this section—

approval means an approval granted by an authorised officer under this Act and in force at the material time.

permit means a permit issued under this Act and in force at the material time.

relevant authority means—

(a) a licence, permit or approval; or

(b) an authority under the *Explosives Act 1999* which authorises a person to purchase small arms ammunition under that Act.

141X Collection of firearms in particular circumstances

- (1) This section applies if an individual—
 - (a) gives a firearm to a police officer under section 141W(3) or (4)(a); or
 - (b) complies with a direction under section 141W(4)(b) or (c) in relation to a firearm.
- (2) The individual may, within 3 months after the day the firearm is given to or seized by a police officer, make arrangements with a police officer for a licensed dealer or licensed armourer to collect the firearm if the individual—
 - (a) has consigned the firearm to the licensed dealer or licensed armourer for sale; and
 - (b) has given the police officer a copy of the transaction notification for the consignment.

141Y Acquiring, possessing and using firearms and firearm related items

- (1) An individual who is subject to a firearm prohibition order must not—
 - (a) acquire, possess or use a firearm; or
 - (b) attempt to acquire, possess or use a firearm.

Maximum penalty—500 penalty units or 13 years imprisonment.

- (2) An individual who is subject to a firearm prohibition order must not—
 - (a) acquire, possess or use a firearm related item; or
 - (b) attempt to acquire, possess or use a firearm related item.

Maximum penalty—200 penalty units or 5 years imprisonment.

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- (3) However, an individual does not contravene subsection (1)(a) or (2)(a) in relation to a firearm or firearm related item if—
- (a) the firearm or firearm related item is in the individual's possession when the firearm prohibition order takes effect; and
 - (b) either—
 - (i) the individual gives the firearm or firearm related item to a police officer under section 141W(3) or (4)(a); or
 - (ii) the individual complies with a direction under section 141W(4)(b) or (c), enabling a police officer to seize or otherwise take the firearm or firearm related item.
- (4) For this section, an individual is taken to possess a firearm or firearm related item if there is proof that, at the material time, the firearm or firearm related item was in or on a place at which the individual resided or of which the individual was the owner or the occupier or concerned in the management or control.
- (5) However, it is a defence to an offence against subsection (1) or (2) for the individual to prove the individual did not know and did not have reason to suspect that the firearm or firearm related item was in or on a place mentioned in subsection (4).
- (6) In this section—
- resided*, in relation to a place, includes slept at the place on a regular or frequent basis.

141Z Supply of firearms and firearm related items

A person must not supply a firearm or firearm related item to an individual subject to a firearm

prohibition order if the person knows the individual is subject to the order.

Maximum penalty—

- (a) for a firearm—500 penalty units or 13 years imprisonment; or
- (b) for a firearm related item—200 penalty units or 5 years imprisonment.

141ZA Attending particular premises and events

- (1) An individual who is subject to a firearm prohibition order must not attend—
 - (a) a place endorsed on a dealer’s licence or an armourer’s licence under section 16(1)(b)(iii); or
 - (b) an arms fair approved under section 79(2); or
 - (c) an event or meeting held by an approved historical society; or
 - (d) an approved range; or
 - (e) a shooting gallery approved under section 111; or
 - (f) a shooting range; or
 - (g) an event or meeting held by a shooting club; or
 - (h) premises or an event prescribed by regulation.

Maximum penalty—50 penalty units or 12 months imprisonment.

- (2) For subsection (1)(h), a regulation may prescribe premises or an event only if the commissioner is satisfied a firearm or firearm related item is likely to be stored or present on the premises, or on the premises at which the event is held.

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141ZB Notifying commissioner of change of address

An individual subject to a firearm prohibition order must give the commissioner written notice of a change to the individual's residential address within 24 hours of the change occurring.

Maximum penalty—100 penalty units.

Division 4 Powers relating to firearm prohibition orders

141ZC Definition for division

In this division—

vehicle means—

- (a) a vehicle under the *Transport Operations (Road Use Management) Act 1995*; or
- (b) an aircraft; or
- (c) a train; or
- (d) a tram; or
- (e) a vessel.

141ZD When powers may be exercised

- (1) A police officer may, without a warrant or consent, exercise a power under this division if the exercise of the power is reasonably required to determine whether an individual subject to a firearm prohibition order is committing an offence under section 141Y(1) or (2).
- (2) The police officer may exercise the power with the assistance of another police officer.

141ZE Power to search individuals

A police officer may do the following in relation to an individual subject to a firearm prohibition order—

- (a) stop and detain the individual;
- (b) search the individual and anything in the individual's possession for a firearm or firearm related item.

Note—

See the *Police Powers and Responsibilities Act 2000*, chapter 20, part 3 for safeguards that apply to a search under this section.

141ZF Power to search vehicles

- (1) This section applies in relation to a vehicle if an individual who is subject to a firearm prohibition order—
 - (a) is the registered operator of the vehicle; or
 - (b) is driving or riding the vehicle, or is in charge or control of the vehicle; or
 - (c) is a passenger in or on the vehicle; or
 - (d) ordinarily has access to, or use of, the vehicle.
- (2) A police officer may do the following in relation to the vehicle—
 - (a) stop the vehicle;
 - (b) detain the vehicle and anyone in or on the vehicle;
 - (c) search the vehicle and anything in or on the vehicle for a firearm or firearm related item.
- (3) In this section—

registered operator, of a vehicle, see the *Transport Operations (Road Use Management)*

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Act 1995, schedule 4.

141ZG Power to search premises

(1) A police officer may enter and search relevant premises for a firearm or firearm related item.

(2) In this section—

relevant premises means—

- (a) premises owned or occupied by, or in the care or under the control or management of, an individual subject to a firearm prohibition order; or
- (b) premises at which an individual subject to a firearm prohibition order resides; or
- (c) a vehicle on premises mentioned in paragraph (a) or (b).

resides, in relation to premises, includes sleeps at the premises on a regular or frequent basis.

141ZH Power to seize items

(1) A police officer may seize a firearm or firearm related item found during a search under this division.

(2) A thing seized under this section is, for the *Police Powers and Responsibilities Act 2000*, section 622, taken to have been seized under that Act.

Division 5 Annual review of firearm prohibition orders in relation to children

141ZI Application of division

This division applies if—

- (a) a child is subject to a firearm prohibition order made under section 141H; and
- (b) either—
 - (i) the order has been in effect for more than 1 year; or
 - (ii) the order has been in effect for more than 1 year since it was last reviewed under this division.

141ZJ Applications for review by commissioner

- (1) The commissioner must apply to the court for a review of the firearm prohibition order.
- (2) The application must be made not later than—
 - (a) if section 141ZI(b)(i) applies—the day that is 7 days after the first anniversary of the day the firearm prohibition order took effect; or
 - (b) if section 141ZI(b)(ii) applies—the day that is 1 year after the day the last review was finalised.
- (3) The commissioner must give the child a copy of the application as soon as reasonably practicable after it is made.

141ZK Content of applications

The application must—

- (a) include any information about the child the commissioner considers is relevant to the review; and

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- (b) include an assessment of whether the firearm prohibition order should remain in effect, or whether it would be more appropriate to revoke the order; and
- (c) state that the child may respond to the application under section 141ZL; and
- (d) state the commissioner's address for service of any response to the application.

141ZL Responses to applications

- (1) The child may respond to the application by filing a response with the court within 14 days after the day a copy of the application is given to the child under section 141ZJ(3).
- (2) The child must, within the period stated in subsection (1), give the commissioner a copy of the response by leaving the document at, or sending it to, the address for service stated in the application.
- (3) The child's response may—
 - (a) respond to the assessment mentioned in section 141ZK(b); and
 - (b) include any information relied on by the child for the response.

Example of information—

evidence that the child has completed a rehabilitation program since the firearm prohibition order was made

141ZM Conduct of reviews

- (1) In conducting the review of the firearm prohibition order, the court must decide whether it remains in the public interest for the order to remain in effect or whether it is more appropriate to revoke the order, having regard to the risk the

child poses to public safety or security.

- (2) The court may decide it is more appropriate to revoke the order only if the child's circumstances have changed since the firearm prohibition order was made.
- (3) The court may conduct the review on the papers unless satisfied it is in the interests of justice to conduct a hearing.

Division 6 Appeals

141ZN Definition for division

In this division—

appellate court, in relation to an appeal under this division, means the court to which the appeal is made under section 141ZO.

141ZO Who may appeal

- (1) An individual subject to a firearm prohibition order may appeal against the decision to make the order to—
 - (a) if the order was made under section 141G and the individual is a child—the Childrens Court constituted by a Childrens Court magistrate; or
 - (b) if the order was made under section 141G and the individual is an adult—the Magistrates Court; or
 - (c) if the order was made under section 141H and the individual is a child—the Childrens Court constituted by a Childrens Court judge; or

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- (d) if the order was made under section 141H and the individual is an adult—the District Court.
- (2) Subsection (3) applies if—
 - (a) the commissioner applies to the court under section 141M for a firearm prohibition order to be made in relation to an individual; and
 - (b) the court decides not to make the order.
- (3) The commissioner may appeal against the decision not to make the firearm prohibition order to—
 - (a) if the individual is a child—the Childrens Court constituted by a Childrens Court judge; or
 - (b) if the individual is an adult—the District Court.

141ZP How to start appeals

- (1) The appeal is started by filing written notice of the appeal with the registrar of the appellate court.
- (2) The notice of appeal must be filed within 28 days after—
 - (a) for an appeal under section 141ZO(1)—the day the firearm prohibition order took effect; or
 - (b) for an appeal under section 141ZO(3)—the day the decision being appealed against was made.
- (3) The appellant must—
 - (a) for an appeal under section 141ZO(1)—serve a copy of the notice of appeal on the commissioner; or
 - (b) for an appeal under section 141ZO(3)—

- (i) serve a copy of the notice of appeal on the individual to whom the decision being appealed against relates; and
 - (ii) file a copy of the notice of appeal in the court that made the decision.
- (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.

141ZQ Effect of firearm prohibition orders not stayed by appeal

- (1) The start of an appeal does not—
 - (a) affect the operation of a firearm prohibition order; or
 - (b) prevent the taking of action in relation to a firearm prohibition order.
- (2) However, the appellate court may order the suspension of the operation of the firearm prohibition order or stay any proceeding under the order if satisfied it would be appropriate to do so having regard to—
 - (a) the likely impact of the suspension or stay on the protection of public safety or security; and
 - (b) any other matter the appellate court considers relevant.

141ZR Hearing procedures

- (1) An appeal under section 141ZO(1) against the making of a firearm prohibition order must be decided—

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- (a) for a firearm prohibition order made under section 141G—on the evidence before the commissioner when making the order; or
 - (b) for a firearm prohibition order made under section 141H—on the evidence and proceedings before the court that made the order.
- (2) An appeal under section 141ZO(3) against a decision not to make a firearm prohibition order must be decided on the evidence and proceedings before the court that made the decision.
- (3) However, the appellate court may order that the appeal be heard afresh, in whole or part.

141ZS 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) if the decision was made by a court—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.

Division 7 Miscellaneous

141ZT Confidentiality of criminal intelligence

- (1) This section applies in relation to the following proceedings before a court—

- (a) an application for a firearm prohibition order under division 2, subdivision 3;
 - (b) a review of a firearm prohibition order under division 5;
 - (c) an appeal under division 6;
 - (d) a review under the *Judicial Review Act 1991* of a decision made in relation to the making of a firearm prohibition order under division 2 or the review of a firearm prohibition order under division 5.
- (2) The court must, on the application of the commissioner, take steps to maintain the confidentiality of information classified by the commissioner as criminal intelligence, including steps to receive evidence and hear argument about the information in the absence of—
- (a) the parties to the proceedings and their representatives; and
 - (b) the public.
- (3) Also, the court may, as it considers appropriate to protect the confidentiality of criminal intelligence, receive evidence consisting of or relating to information classified by the commissioner as criminal intelligence by way of affidavit of a police officer of or above the rank of superintendent.
- (4) If the court considers information has been incorrectly classified by the commissioner as criminal intelligence, the commissioner may withdraw the information from consideration by the court.
- (5) Information that is withdrawn by the commissioner under subsection (4) must not be—
- (a) disclosed to any person; or
 - (b) taken into consideration by the court.

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- (6) If a decision is made by the court on the basis of information that is classified by the commissioner as criminal intelligence, the only reason required to be given is that the decision was made in the public interest.
- (7) The *Public Records Act 2023* does not apply to activities of, or records made or kept by, the court to the extent that Act would otherwise enable criminal intelligence to be disclosed.
- (8) In this section—
criminal intelligence means criminal intelligence that could, if disclosed, reasonably be expected—
 - (a) to prejudice a criminal investigation; or
 - (b) to enable the existence or identity of a confidential source of information to be ascertained; or
 - (c) to endanger a person’s life or physical safety; or
 - (d) to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of an Act; or
 - (e) to prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety or security.

141ZU Records to be kept

- (1) The commissioner must keep a register about firearm prohibition orders made under this part.
- (2) The register must state the following matters for each calendar year—
 - (a) the number of firearm prohibition orders made by the commissioner in the year;

- (b) the number of firearm prohibition orders made by the court in the year;
 - (c) the number of firearm prohibition orders made in relation to children in the year;
 - (d) the number of firearm prohibition orders revoked in the year.
- (3) The register must also include the following particulars for each firearm prohibition order made in a calendar year—
- (a) the day the order was made;
 - (b) details of the individual subject to the order;
 - (c) the period the order is in effect;
 - (d) whether the decision to make the order was appealed against and, if so, the outcome of the appeal;
 - (e) details of any items given to or seized by a police officer under section 141W;
 - (f) details of any actions taken by a police officer in relation to the order under division 4, including any noncompliance with the division by a police officer in taking the action;
 - (g) details of any firearms or firearm related items seized by a police officer in exercising powers in relation to the order under division 4;
 - (h) details of any charges made against the individual under this Act;
 - (i) details of any charges made against the individual under another Act arising from a search under division 4.
- (4) The commissioner must ensure the public interest monitor has access to the register for the purpose of performing the monitor's functions under the

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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.

141ZV Limitations on particular delegations

(1) Despite the *Police Service Administration Act 1990*, section 4.10(1), the commissioner may delegate the commissioner's powers under section 141G to a police officer of at least the rank of superintendent only.

Note—

Under the *Police Service Administration Act 1990*, section 4.10, the commissioner has the power to delegate the commissioner's powers.

(2) Despite the *Police Service Administration Act 1990*, section 4.10(3), a delegation of the commissioner's powers under section 141G may not permit the subdelegation of the power to another person.

74 Amendment of s 142 (Right to apply for review of decisions)

Section 142(2)—

insert—

Note—

For appeal rights in relation to firearm prohibition orders, see part 5A, division 6.

75 Amendment of s 164 (Service of notice, orders etc.)

Section 164(1), after 'this Act'—

insert—

, other than a firearm prohibition order,

76 Insertion of new s 168E

After section 168D—

insert—

168E Review of pt 5A

- (1) The Minister must arrange an independent interim review of the operation and effectiveness of part 5A as soon as practicable after the day that is 2 years after the day the part commences.
- (2) Also, the Minister must arrange a further independent review of the operation and effectiveness of part 5A as soon as practicable after the day that is 5 years after the day the part commences.
- (3) The terms of reference for each review must include reviewing—
 - (a) the effectiveness of part 5A in achieving the purpose of the part and in preventing the acquisition, possession and use of firearms and firearm related items by persons subject to firearm prohibition orders; and
 - (b) the effectiveness and appropriateness of part 5A compared to firearm prohibition order schemes in other jurisdictions; and
 - (c) the effectiveness and appropriateness of the exercise of powers under part 5A, division 4.
- (4) As soon as practicable after each review is finished, the Minister must table in the Legislative Assembly a copy of the review.

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77 Insertion of new pt 8, div 9

Part 8—

insert—

Division 9 Transitional provisions for Queensland Community Safety Act 2024

196 Definition for division

In this division—

new, for a provision of this Act, means the provision as in force from the commencement.

197 Existing applications relating to licences

- (1) This section applies to an application made, but not decided, under former part 2 before the commencement.
- (2) The application is taken to be an application under new part 2.
- (3) Anything done in relation to the application under the Act before the commencement is taken to have been done in relation to the application under the Act as in force from the commencement.
- (4) In this section—
former part 2 means part 2 as in force from time to time before the commencement.

198 Existing reviews of decisions

- (1) This section applies if—
 - (a) before the commencement, a person applied for a review of a decision in relation to a

licence under section 142(1)(a), (aa) or (e);
and

- (b) immediately before the commencement, the review had not been decided.
- (2) In hearing or deciding the review, or any proceeding relating to the review, this Act as in force from the commencement applies.

199 Advising of particular events happening before commencement

- (1) This section applies in relation to a licence in effect immediately before the commencement if—
- (a) on the commencement, the licensee or the licensee's representative is a disqualified person; or
 - (b) within 10 years before the day this section commences, the licensee or the licensee's representative—
 - (i) has been convicted of a class A serious offence or a class B serious offence; or
 - (ii) has been released from lawful custody in relation to a conviction for a class A serious offence or a class B serious offence; or
 - (iii) has been subject to a supervision order in relation to a conviction for a class A serious offence or a class B serious offence; or
 - (c) before the commencement, the licensee or the licensee's representative was charged with a serious offence and the charge has not been dealt with.
- (2) New section 24 applies in relation to the licensee as if—

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- (a) the licensee or the licensee's representative being a disqualified person, or the happening of an event mentioned in subsection (1)(b) or (c), were a change under new section 24; and
- (b) a reference in new section 24(1) to within 14 days of the happening of an event mentioned in section 24(2) were a reference to within 90 days after the day this section commences.

Note—

See section 34 for the offence of contravening of a licence condition.

- (3) For subsection (1), it is irrelevant whether or not the conviction is a spent conviction, provided the conviction is recorded.

78 Insertion of new sch 1AA

Before schedule 1—

insert—

Schedule 1AA Class B serious offences

section 5B

This Act

Section	Section heading	Circumstance
50(1)	Possession of weapons	if paragraph (a), (b) or (c)(i) or (ii) of the penalty applies to the offence
50B(1)	Unlawful supply of weapons	

Section	Section heading	Circumstance
61	Shortening firearms	
63	Altering identification marks of weapons	
65(1)	Unlawful trafficking in weapons	

Corrective Services Act 2006

Section	Section heading	Circumstance
122(2)	Unlawful assembly, riot and mutiny	

Criminal Code

Section	Section heading	Circumstance
61	Riot	
69	Going armed so as to cause fear	
75	Threatening violence	
76	Recruiting person to become participant in criminal organisation	
77B	Habitually consorting with recognised offenders	
80	Crime of piracy	
119B	Retaliation against or intimidation of judicial officer, juror, witness etc.	
142	Escape by persons in lawful custody	
210	Indecent treatment of children under 16	
213	Owner etc. permitting abuse of children on premises	

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Section	Section heading	Circumstance
215	Engaging in penile intercourse with child under 16	if the person who committed the offence was an adult when the offence was committed
216	Abuse of persons with an impairment of the mind	
217	Procuring young person etc. for penile intercourse	
218	Procuring sexual acts by coercion etc.	
218A	Using internet etc. to procure children under 16	
218B	Grooming child under 16 years or parent or carer of child under 16 years	
219	Taking child for immoral purposes	
221	Conspiracy to defile	
222	Incest	
228A	Involving child in making child exploitation material	
228B	Making child exploitation material	
228C	Distributing child exploitation material	
228D	Possessing child exploitation material	
228DA	Administering child exploitation material website	
228DB	Encouraging use of child exploitation material website	

Section	Section heading	Circumstance
228DC	Distributing information about avoiding detection	
228I	Producing or supplying child abuse object	
228J	Possessing child abuse object	
229B	Repeated sexual conduct with a child	
306	Attempt to murder	
307	Accessory after the fact to murder	
308	Threats to murder in document	
309	Conspiring to murder	
313	Killing unborn child	
314A	Unlawful striking causing death	
315	Disabling in order to commit indictable offence	
315A	Choking, suffocation or strangulation in a domestic setting	
316	Stupefying in order to commit indictable offence	
317	Acts intended to cause grievous bodily harm and other malicious acts	
317A(1)	Carrying or sending dangerous goods in a vehicle	
318	Obstructing rescue or escape from unsafe premises	
319	Endangering the safety of a person in a vehicle with intent	
320A	Torture	

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Section	Section heading	Circumstance
321	Attempting to injure by explosive or noxious substances	
321A	Bomb hoaxes	
322	Administering poison with intent to harm	
324	Failure to supply necessities	
326	Endangering life of children by exposure	
328A	Dangerous operation of a vehicle	if the Criminal Code, section 328A(2), (3) or (4) applies to the offence
339	Assaults occasioning bodily harm	if the Criminal Code, section 339(3) applies to the offence or the offence is a domestic violence offence under the Criminal Code, section 1
340	Serious assaults	
349	Rape	
350	Attempt to commit rape	
351	Assault with intent to commit rape	
352	Sexual assaults	
354	Kidnapping	
354A	Kidnapping for ransom	
359E	Punishment of unlawful stalking, intimidation, harassment or abuse	

Section	Section heading	Circumstance
363	Child-stealing	
363A	Abduction of child under 16	
364	Cruelty to children under 16	
398	Punishment of stealing	if the Criminal Code, section 398, punishment in special cases, item 14 or 15 applies to the offence
411	Punishment of robbery	if the offence is not a class A serious offence
412	Attempted robbery	
413	Assault with intent to steal	
414	Demanding property with menaces with intent to steal	
415	Extortion	
417A	Taking control of aircraft	
419	Burglary	if the Criminal Code, section 419(3) or (5) applies to the offence
433	Receiving tainted property	if the Criminal Code, section 433(1), penalty, paragraph (b) applies to the offence
461	Arson	
469A	Sabotage and threatening sabotage	
470	Attempts to destroy property by explosives	

[s 78]

Section	Section heading	Circumstance
470A	Unlawful dealing with explosive or noxious substances	

Domestic and Family Violence Protection Act 2012

Section	Section heading	Circumstance
177(2)	Contravention of domestic violence order	if paragraph (a) of the penalty applies to the offence

Drugs Misuse Act 1986

Section	Section heading	Circumstance
5(1)	Trafficking in dangerous drugs	
6(1)	Supplying dangerous drugs	
7(1) or (2)	Receiving or possessing property obtained from trafficking or supplying	
8(1)	Producing dangerous drugs	
8A	Publishing or possessing instructions for producing dangerous drugs	
9(1)	Possessing dangerous drugs	if paragraph (a), (b) or (c) of the penalty applies to the offence
10B(1)	Possession of a prohibited combination of items	
11(1)	Permitting use of place	

Summary Offences Act 2005

Section	Section heading	Circumstance
10C(1) or (2)	Wearing or carrying prohibited item in a public place	

79 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *court*, *criminal history*, *firearm*, *prohibited person* and *vehicle*—

omit.

(2) Schedule 2—

insert—

appellate court, for part 5A, division 6, see section 141ZN.

class A serious offence see section 5A.

class B serious offence see section 5B.

class C serious offence see section 5C.

convicted means found guilty, or having a plea of guilty accepted, by a court.

court—

(a) for part 5A—see section 141D; or

(b) otherwise—means the Magistrates Court.

criminal history, of a person, for part 5A, see section 141D.

disqualified person see section 5D.

firearm—

1 Generally, *firearm* means—

(a) a gun or other thing ordinarily described as a firearm; or

[s 79]

(b) a thing ordinarily described as a weapon that, if used in the way for which it was designed or adapted, is capable of being aimed at a target and causing death or injury by discharging—

(i) a projectile; or

(ii) noxious, corrosive or irritant liquid, powder, gas, chemical or other substance; or

(c) a thing that would be a firearm mentioned in paragraph (a) or (b) if it were not temporarily inoperable or incomplete; or

(d) a major component part of a firearm.

2 However, the term does not include—

(a) an antique firearm, explosive tool, captive bolt humane killer, spear gun, longbow or crossbow; or

(b) a replica of a spear gun, longbow or crossbow; or

(c) a slingshot, shanghai or sword; or

(d) a public monument.

3 For part 5A, see also section 141D.

firearm prohibition order see section 141D.

firearm related item see section 141D.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

serious offence means a class A serious offence, class B serious offence or class C serious offence.

supervision order—

- (a) means an order made under an Act or a law of another jurisdiction, or made by an Australian court, that subjects a person to supervision, including, for example—
 - (i) a community based order under the *Penalties and Sentences Act 1992*; or
 - (ii) a community based order or supervised release order under the *Youth Justice Act 1992*; or
 - (iii) a parole order under the *Corrective Services Act 2006*; but
- (b) does not include a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

transaction notification means a notification given under section 71(3).

vehicle—

- (a) for part 5A, division 4—see section 141ZC; or
 - (b) otherwise—includes any aircraft or vessel.
- (3) Schedule 2, definition *representative*, after ‘and 140’—
insert—
and part 5A
- (4) Schedule 2, definition *restricted item*, ‘section 67(8)’—
omit, insert—
section 67(9)

[s 80]

Part 3 **Amendments relating to enhanced police responses**

Division 1 **Service of documents and related matters**

Subdivision 1 **Amendment of Corrective Services Act 2006**

80 **Act amended**

This subdivision amends the *Corrective Services Act 2006*.

81 **Insertion of new ss 348A and 348B**

After section 348—

insert—

348A Approved corrective services facilities

- (1) The chief executive may approve a corrective services facility for service of documents under section 348B.
- (2) The chief executive must publish an approval under subsection (1) on the department's website.

348B Personal service of documents in particular circumstances

- (1) This section applies if—
 - (a) a police officer is required or permitted under the *Domestic and Family Violence Protection Act 2012* to personally serve a document on a person; and

- (b) the person is a prisoner detained in a corrective services facility approved under section 348A(1); and
 - (c) the chief executive agrees, under an arrangement between the chief executive and the police commissioner, to receive the document.
- (2) The chief executive must personally serve the document on the person.
 - (3) Unless the contrary is proved, for the *Domestic and Family Violence Protection Act 2012*, the document is taken to be personally served on the person on the day the document is served by the chief executive.
 - (4) This section does not prevent a police officer from personally serving the document on the person under the *Domestic and Family Violence Protection Act 2012*.

82 Amendment of s 351 (Evidentiary aids)

Section 351(3)—

insert—

- (j) the chief executive, on a stated day or during a stated period, personally served a document on a person under section 348B.

Subdivision 2 Amendment of Police Powers and Responsibilities Act 2000

83 Act amended

This subdivision amends the *Police Powers and Responsibilities Act 2000*.

[s 84]

Note—

See also the amendments in schedule 1.

84 Amendment of s 53BAC (Police powers for giving official warning for consorting)

(1) Section 53BAC(6)—

omit, insert—

- (6) Unless the contrary is proved, 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.

(2) Section 53BAC(9), definition *prescribed way*—

omit, insert—

prescribed way, for giving an approved form to a person, means—

- (a) personally serving the form on the person;
or
- (b) 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.

85 Insertion of new ch 23, pts 1AA and 1AB

After section 789B—

insert—

**Part 1AA Electronic service of
documents**

789C Application of part

This part applies in relation to any power or responsibility a police officer has under this Act or another Act that permits or requires the police officer to personally serve a prescribed document on a person.

Note—

See also sections 11 and 12.

789D Definitions for part

In this part—

prescribed document means a document mentioned in schedule 5A.

related document means a document to which a consent given under this part applies under section 789I.

789E Serving documents by electronic communication

- (1) A police officer may serve a prescribed document on a person by electronic communication sent to a unique electronic address of the person if—
 - (a) the police officer reasonably believes, having regard to the circumstances—
 - (i) the electronic communication will be received by the person within a reasonable time; and
 - (ii) the electronic communication would be readily accessible by the person so as to make the document useable by subsequent reference; and
 - (iii) it is appropriate to do so in the circumstances given the purpose and effect of the document; and

[s 85]

- (b) the police officer has made a reasonable effort to ensure the person understands the purpose and effect of the document; and
 - (c) the person has given consent under this part for service of the document by electronic communication; and
 - (d) the person's consent has not ceased to have effect under section 789J; and
 - (e) the person has nominated the person's unique electronic address for service by electronic communication.
- (2) Also, the police officer may serve a related document on the person by electronic communication sent to the person's nominated unique electronic address if the person's consent has not ceased to have effect under section 789J.
- (3) However, the police officer must not serve the prescribed document or related document on a person under this section if the police officer reasonably suspects the person is—
- (a) a child under 16 years; or
 - (b) a person with impaired capacity.
- (4) This section does not prevent a police officer from—
- (a) personally serving the prescribed document or related document on the person; or
 - (b) serving the prescribed document or related document on a lawyer acting for the person in a proceeding.

789F When service by electronic communication is effected

- (1) This section applies if a police officer serves a prescribed document or related document on a

person under section 789E.

- (2) Unless the contrary is proved, for this Act and any other Act, the prescribed document or related document is taken to be personally served on the person on the day and at the time the document was sent by electronic communication to the person's nominated unique electronic address.

789G Consent for service by electronic communication

- (1) Before asking a person to give consent for service of a prescribed document by electronic communication, a police officer must ensure the person is given the explanation required under section 789H.
- (2) A person may give consent only in the presence of a police officer in accordance with this part.

789H Matters relating to consent for service by electronic communication

- (1) For section 789G, a police officer must explain each of the following matters to the person—
 - (a) the purpose and effect of the prescribed document;
 - (b) if reasonably practicable in the circumstances, what related documents are included in the consent;
 - (c) the nature of the consent;
 - (d) that the person may refuse to give consent;
 - (e) that if the person gives consent, the person may withdraw the person's consent by written notice given to the commissioner;

[s 85]

- (f) that if the person does not withdraw the person's consent, the consent ceases to have effect on the earliest of—
 - (i) 6 months after the day the consent is given; or
 - (ii) if the person is detained in a corrective services facility or a detention centre—the day the person is detained; or
 - (iii) if the person is detained in an authorised mental health service or public sector health service facility under the *Mental Health Act 2016*—the day the person is detained.
- (2) The police officer may give the explanation to the person orally or in the approved form.
- (3) If the police officer gives the explanation to the person orally, the explanation must be given in a language or in a way likely to be readily understood by the person.

789I Consent applies to related documents

- (1) This section applies if a person gives consent for service of a prescribed document by electronic communication under this part.
- (2) If a proceeding under an Act is started in relation to the prescribed document, or for another matter arising from the circumstances stated in the document, the consent given by the person applies to any document permitted or required to be served for the proceeding.
- (3) Also, if an Act permits or requires a document to be served in relation to a matter stated in the prescribed document, the consent applies to the document.

789J Withdrawal of consent etc.

- (1) A person may by written notice given to the commissioner withdraw the person's consent for service of a prescribed document and any related document by electronic communication under this part.
- (2) The person's consent ceases to have effect for this part in relation to the prescribed document and any related document when the commissioner receives the notice.
- (3) Also, if the person's consent is not withdrawn under subsection (1), the consent ceases to have effect for this part on the earliest of—
 - (a) 6 months after the day the consent is given; or
 - (b) if the person is detained in a corrective services facility or a detention centre—the day the person is detained; or
 - (c) if the person is detained in an authorised mental health service or public sector health service facility under the *Mental Health Act 2016*—the day the person is detained.
- (4) Subsection (5) applies if—
 - (a) the person's consent ceases to have effect for this part; and
 - (b) before the consent ceases to have effect, a document is served on a person under section 789E.
- (5) The service of the document on the person under section 789E is not invalid merely because the person's consent ceased to have effect after service was effected.

789K Record of explanation, consent and unique electronic address

- (1) This section applies if a person gives consent for service of a prescribed document by electronic communication under this part in the presence of a police officer.
- (2) The police officer must ensure all of the following matters are recorded—
 - (a) the explanation given to the person under section 789H;
 - (b) the person's consent;
 - (c) the person's nominated unique electronic address and an acknowledgement by the person of that address.
- (3) One or more of the matters mentioned in subsection (2) may be given orally and recorded electronically.
- (4) If the person's consent is only in writing, the police officer must ensure that the person's consent is signed by the person.

789L Evidentiary provision

For a proceeding under an Act, a certificate signed by the commissioner stating any of the following matters is evidence of what it states, unless the contrary is proved—

- (a) a prescribed or related document is, or was, on a stated day sent by the police officer to a person's nominated unique electronic address;
- (b) the police officer complied with sections 789E, 789G and 789K.

Part 1AB Electronically signing documents

789M Approved method for electronically signing documents

- (1) The commissioner may approve a method for electronically signing a document under section 789N.
- (2) The commissioner must be satisfied, having regard to all the circumstances, that the method approved under this section is a reliable method for identifying a signatory of a document.
- (3) Also, the commissioner must not approve a method prescribed under the *Oaths Act 1867*, section 13A as a method that is not an accepted method.

789N Police officers may electronically sign documents

- (1) This section applies if, in the performance of a police officer's duty, the officer is required or permitted under this Act or another Act to sign a document.

Note—

See also sections 11 and 12.

- (2) The police officer may electronically sign the document using a method approved under section 789M.
- (3) Unless the contrary is proved, for this Act and any other Act, a document electronically signed by a police officer under this section is taken to be a document signed by the police officer.

[s 86]

86 Amendment of s 804 (Compensation)

Section 804—

insert—

- (8) The Minister may delegate the Minister’s powers under this section to the commissioner.

87 Renumbering of ch 23, pts 1A–2

Chapter 23, parts 1A to 2—

renumber as chapter 23, parts 1 to 5.

88 Insertion of new sch 5A

After schedule 5—

insert—

**Schedule 5A Prescribed documents
for service by
electronic
communication**

section 789D, definition *prescribed document*

- 1 an official warning for consorting
- 2 a notice to appear
- 3 an initial police banning notice
- 4 an application, or a copy of the application, under the *Domestic and Family Violence Protection Act 2012*, section 32(1), 86(1), 118(1), 129(1), or 129(2)
- 5 a police protection notice

- 6 a statement of matters relating to a police protection notice under the *Domestic and Family Violence Protection Act 2012*, section 111
- 7 a copy of release conditions under the *Domestic and Family Violence Protection Act 2012*, section 125
- 8 a temporary protection order, or a copy of the order, under the *Domestic and Family Violence Protection Act 2012*
- 9 a domestic violence order, or a copy of the order, under the *Domestic and Family Violence Protection Act 2012*
- 10 a varied order, or a copy of the order, under the *Domestic and Family Violence Protection Act 2012*
- 11 an intervention order, or a copy of the order, under the *Domestic and Family Violence Protection Act 2012*
- 12 a notice of proceedings under the *Domestic and Family Violence Protection Act 2012*

89 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

prescribed document, for chapter 23, part 2, see section 789D.

related document, for chapter 23, part 2, see section 789D.

[s 90]

Division 2 Hooning and low-range drink-driving

Subdivision 1 Amendment of Summary Offences Act 2005

90 Act amended

This subdivision amends the *Summary Offences Act 2005*.

91 Replacement of s 19C (Unlawful conduct associated with commission of racing, burn out or other hooning offence)

Section 19C—

omit, insert—

19C Unlawful conduct associated with commission of racing, burn out or other hooning offence

- (1) A person must not—
 - (a) participate in a hooning group activity; or
 - (b) without reasonable excuse, spectate a hooning group activity; or
 - (c) organise, promote or encourage the doing of a thing mentioned in paragraph (a) or (b) by someone else; or
 - (d) for a purpose mentioned in paragraph (c), photograph or film, or publish a photograph or film of, a motor vehicle being used to commit a racing, burn out or other hooning offence.

Maximum penalty—40 penalty units or 1 year's imprisonment.

- (2) A driver of a motor vehicle who commits a racing, burn out or other hooning offence may not be convicted of both—

- (a) an offence against subsection (1)(a) for participating in a hooning group activity by committing the racing, burn out or other hooning offence; and
 - (b) the racing, burn out or other hooning offence.
- (3) Without limiting what may be a reasonable excuse for subsection (1)(b), a person has a reasonable excuse for spectating a hooning group activity if—
- (a) the person is a journalist gathering information for the purpose of journalism; or
 - (b) the person is gathering information for the purpose of reporting the information to the police.
- (4) In this section—

gathering includes recording.

hooning group activity means a group activity involving a motor vehicle being used to commit a racing, burn out or other hooning offence.

spectate a hooning group activity—

- (a) means remain at the place where the activity is being carried on and watch the activity; and
- (b) does not include, for a person moving through or past the place where the activity is being carried on, stop momentarily to watch the activity before moving on.

[s 92]

Subdivision 2 Amendment of Transport Operations (Road Use Management) Act 1995

92 Act amended

This subdivision amends the *Transport Operations (Road Use Management) Act 1995*.

93 Amendment of s 78 (Driving of motor vehicle without a driver licence prohibited)

(1) Section 78(1), penalty, paragraph (a), after ‘disqualified,’—
insert—

under section 79I or

(2) Section 78(3), after paragraph (a)—
insert—

(aa) if the person committed the offence while the person was disqualified, under section 79I, from holding or obtaining a Queensland driver licence—a period, of at least 2 years but not more than 5 years, decided by the court;

(3) Section 78(3)(a), (i) and (j), ‘for a period’—
omit, insert—

a period

(4) Section 78(3A)—
omit, insert—

(3A) For subsection (3)—

(a) if the circumstances mentioned in paragraph (a) and another paragraph of the subsection exist—the court must apply paragraph (a);
and

(b) if the circumstances mentioned in paragraph (aa) and another paragraph, other than paragraph (a), of the subsection exist—the court must apply paragraph (aa).

(5) Section 78(6), definition *disqualified driver*—

insert—

(ba) who is disqualified from holding or obtaining a Queensland driver licence under section 79I; or

94 Amendment of s 79 (Vehicle offences involving liquor or other drugs)

(1) Section 79(1), ‘penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months’—

omit, insert—

maximum penalty of 40 penalty units or 9 months imprisonment

(2) Section 79(1A), (1B), (1E) and (2I), ‘60 penalty units’—

omit, insert—

72 penalty units

(3) Section 79(1D), ‘penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year’—

omit, insert—

maximum penalty of 42 penalty units or 1 year’s imprisonment

(4) Section 79(1F), ‘penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months’—

omit, insert—

maximum penalty of 28 penalty units or 6 months imprisonment

[s 94]

- (5) Section 79(2), (2A), (2B) and (2D), ‘penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months’—

omit, insert—

maximum penalty of 20 penalty units or 3 months imprisonment

- (6) Section 79(2AA), ‘penalty not exceeding 14 penalty units or to imprisonment for a term not exceeding 3 months’—

omit, insert—

maximum penalty of 14 penalty units or 3 months imprisonment

- (7) Section 79(2F), ‘penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months’—

omit, insert—

maximum penalty of 28 penalty units or 6 months imprisonment

- (8) Section 79(2G), ‘penalty not exceeding 28 penalty units or to imprisonment for a term not exceeding 9 months’—

omit, insert—

maximum penalty of 36 penalty units or 9 months imprisonment

- (9) Section 79(2H), ‘penalty not exceeding 30 penalty units or to imprisonment for a term not exceeding 1 year’—

omit, insert—

maximum penalty of 42 penalty units or 1 year’s imprisonment

- (10) Section 79(2J), penalty, ‘20 penalty units’—

omit, insert—

26 penalty units

- (11) Section 79(2K) and (2L), penalty, ‘14 penalty units’—

omit, insert—

20 penalty units

95 Amendment of s 79B (Immediate suspension or disqualification)

(1) Section 79B(1)—

insert—

- (e) charged with a drink driving offence after being served with an infringement notice under section 79H for another offence but before the administrative disqualification of the person starts.

(2) Section 79B(7)—

insert—

drink driving offence see section 79H(4).

96 Insertion of new ss 79H to 79J

After section 79G—

insert—

79H Infringement notices for driving while over general alcohol limit but not over middle alcohol limit

- (1) An infringement notice may be served on a person for a contravention of section 79(2)(a) or (b) to the extent it involves a motor vehicle only if—
 - (a) the person has not, within 5 years before the contravention, committed a drink driving offence; and
 - (b) the person holds a Queensland driver licence authorising the person to drive the vehicle on the road.
- (2) However, an infringement notice can not be served on a person for a contravention of section 79(2)(a) or (b) if any of following circumstances

[s 96]

apply—

- (a) the motor vehicle is a motor vehicle mentioned in section 79(2C);
 - (b) the person is an interlock driver;
 - (c) the person's Queensland driver licence is—
 - (i) a learner, probationary, provisional or restricted licence; or
 - (ii) a driver licence receipt for a learner, probationary, provisional or restricted licence.
- (3) The authorised person who serves the infringement notice must, when the infringement notice is served, also give the person a written notice that states the following matters—
- (a) the name of the person;
 - (b) the details of the infringement notice served on the person;
 - (c) that the person will be disqualified under section 79I from holding or obtaining a Queensland driver licence for a period of 2 months unless the person elects to have the matter decided in a Magistrates Court under the *State Penalties Enforcement Act 1999*, section 22(1)(b);
 - (d) if the person is disqualified under section 79I—that the period of disqualification will start on the day that is 28 clear days after the date of the infringement notice;
 - (e) any other matter prescribed by regulation.
- (4) In this section—

authorised person see the *State Penalties Enforcement Act 1999*, schedule 2.

drink driving offence means any of the

following—

- (a) an offence against section 79(1), involving a motor vehicle, while under the influence of liquor;
- (b) an offence against section 79(1F) or (2) involving a motor vehicle;
- (c) an offence against section 79(2A), (2B), (2J), (2K) or (2L);
- (d) an offence under section 80(11), involving a motor vehicle, in relation to failing to provide—
 - (i) a specimen of breath for analysis; or
 - (ii) a specimen of blood for a laboratory test if the requisition to which the failure relates was made for the purpose of determining the concentration of alcohol (if any) in the person's blood;
- (e) an offence against the Criminal Code, section 328A(1) or (4), involving a motor vehicle, when accompanied by the circumstance of aggravation that at the time of committing the offence the offender was adversely affected by alcohol.

79I Administrative disqualification for driving while over general alcohol limit but not over middle alcohol limit

- (1) This section applies if, under section 79H, an infringement notice is served on a person for a contravention of section 79(2)(a) or (b).
- (2) The person is disqualified from holding or obtaining a Queensland driver licence for a period of 2 months (the *administrative disqualification period*).

[s 96]

- (3) The administrative disqualification period for the person starts on the day that is 28 clear days after the date of the infringement notice.
- (4) However, the person is not disqualified under subsection (2) if either of the following circumstances apply before the start of the administrative disqualification period for the person—
 - (a) the person elects to have the matter of the offence decided in a Magistrates Court under the *State Penalties Enforcement Act 1999*, section 22(1)(b);
 - (b) the infringement notice is cancelled or withdrawn under the *State Penalties Enforcement Act 1999*.
- (5) Also, if the person is disqualified under subsection (2) and either of the following circumstances apply, the administrative disqualification period for the person immediately ends—
 - (a) the person elects under the *State Penalties Enforcement Act 1999*, section 41(1)(c), 51(1)(a) or 56(1)(d) to have the matter of the offence decided in a Magistrates Court;
 - (b) the infringement notice is cancelled or withdrawn under the *State Penalties Enforcement Act 1999*.
- (6) The chief executive must, as soon as practicable and before the administrative disqualification period for the person starts, give the person a written notice that states the following matters—
 - (a) the name of the person;
 - (b) that the person will be disqualified under this section from holding or obtaining a Queensland driver licence for a period of 2 months unless the person elects to have the

matter decided in a Magistrates Court under the *State Penalties Enforcement Act 1999*, section 22(1)(b);

- (c) a description of when the period of disqualification will start;
 - (d) that the person may be taken to be convicted of an offence under section 79(2)(a) or (b) under section 79J;
 - (e) any other matter prescribed by regulation.
- (7) Failure to comply with subsection (6) does not affect the validity of the disqualification of the person under this section nor anything done or not done in relation to the disqualification.

79J Effect of administrative disqualification

- (1) This section applies in relation to an administrative disqualification of a person.
- (2) On the day the administrative disqualification period for the person starts, the person is taken to have been convicted of an offence against section 79(2)(a) or (b) for the purposes of—
 - (a) section 79, 86 or 87; and
 - (b) part 3A; and
 - (c) part 3B; and
 - (d) section 127 as if the conviction of an offence against section 79(2)(a) or (b) under this section resulted in the person being disqualified.
- (3) However, if the administrative disqualification of the person immediately ends under section 79I(5)—
 - (a) the person is taken not to have been convicted of the offence despite subsection (2); and

[s 97]

- (b) the person's Queensland driver licence is taken not to have been cancelled despite subsection (2) and section 127; and
- (c) the person is entitled, if the person complied with section 130, to have the person's Queensland driver licence returned within a reasonable period.

97 Omission of s 81 (Notices to offenders for certain first offences)

Section 81—

omit.

98 Amendment of s 86 (Disqualification of drivers of motor vehicles for certain offences)

(1) Section 86(2)—

insert—

- (eb) if the person is convicted of an offence in relation to a motor vehicle against section 79(2)—for a period of not less than 2 months and not more than 9 months from the date of the conviction from holding or obtaining a Queensland driver licence; or

(2) Section 86(7), from 'under section 79B'—

omit, insert—

under section 79B or 79I, the court may take into account the period of suspension or disqualification that has already been served by the person under section 79B or 79I.

99 Amendment of s 90A (Definitions for ss 90B–90D)

Section 90A, definition *relevant disqualifying provision*, paragraph (b), 'section 81'—

omit, insert—

section 79I

100 Amendment of s 90C (Cumulative periods of disqualification for acts done and offences committed at same time)

(1) Section 90C(1)(b)(i), ‘81 or’—

omit.

(2) Section 90C(1)(c), ‘section 78(3)(a) to’—

omit, insert—

section 78(3)(a), (b) to

101 Amendment of s 91D (Application of division)

Section 91D(4), definition *prescribed provision*, ‘81(4)(b),’—

omit.

102 Amendment of s 91I (Definitions for pt 3B)

Section 91I, heading ‘pt 3B’—

omit, insert—

part

103 Amendment of s 91J (Persons to whom div 2 applies)

(1) Section 91J, heading—

omit, insert—

91J Application of division

(2) Section 91J(5), definition *prescribed provision*, ‘81(4)(b),’—

omit.

[s 104]

104 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

administrative disqualification, of a person from holding or obtaining a Queensland driver licence, means a disqualification of the person under section 79I.

administrative disqualification period see section 79I(2).

Division 3 Amendment of Domestic and Family Violence Protection Act 2012

105 Act amended

This division amends the *Domestic and Family Violence Protection Act 2012*.

107 Amendment of s 100 (Police officer must investigate domestic violence)

(1A) Section 100—

insert—

(5A) A police officer's obligation to investigate a complaint, report or circumstance of domestic violence under subsection (1), or to make a written record under subsection (4), ends if the officer reasonably believes that—

- (a) the only type of relevant relationship that exists between the 2 persons the subject of the complaint, report or circumstance is a family relationship; and
- (b) one of the persons is under 18 years.

(1) Section 100—

insert—

- (7) To remove any doubt, it is declared that if a police officer believes that domestic violence has been committed but is unable to take action under subsection (3) as result of section 22(2) or (4), or stops investigating a matter, or taking action, under subsection (5A), this section does not limit the police officer's responsibilities to investigate the matter, or to take action, under another Act, including the Criminal Code, the *Child Protection Act 1999* or the *Youth Justice Act 1992*.

108 Amendment of s 105 (Form of police protection notice)

Section 105(2)—

omit, insert—

- (2) For subsection (1)(j), the date must be—
- (a) within 14 business days after the notice is issued; or
 - (b) if the local Magistrates Court for the respondent does not sit during the time mentioned in paragraph (a)—the court's next sitting date.

109 Amendment of s 169 (Powers of the appellate court)

Section 169—

insert—

- (3) An appellate court may, on its own initiative or on the application of a party to the proceeding, if the court considers it necessary or desirable, make a temporary protection order when the court —
- (a) adjourns an appeal; or
 - (b) sets aside a decision and remits the matter under subsection (1)(d).

[s 110]

110 Amendment of sch (Dictionary)

Schedule—

insert—

standard conditions—

- (a) in relation to a domestic violence order, see section 56; or
- (b) in relation to a police protection notice, see section 106.

Part 4 Amendments relating to youth justice

Division 1 Amendment of Childrens Court Act 1992

111 Act amended

This division amends the *Childrens Court Act 1992*.

112 Amendment of s 20 (Who may be present at a proceeding)

(1) Section 20(1)(c)—

omit, insert—

- (c) if the proceeding is a criminal proceeding—
 - (i) a victim, or a relative of a deceased victim, of the offence alleged to have been committed by the child; or
 - (ii) a person who is a representative of a victim, or of a relative of a deceased victim, of the offence alleged to have been committed by the child; or

Examples for subparagraph (ii)—

- a person who provides support or assistance to a victim or a relative of a deceased victim
- a member of an organisation that is providing support or assistance to a victim, or a relative of a deceased victim, of an offence in relation to a proceeding for the offence

(iii) a person who, in the court's opinion, has a proper interest in the proceeding;
or

(iv) an accredited media entity; or

(2) Section 20(1)(g)—

omit, insert—

(g) a representative of the chief executive (child safety) or the chief executive (youth justice); or

(3) Section 20(1)(da) to (i)—

renumber as section 20(1)(e) to (l).

(4) Section 20(2)—

omit, insert—

(2) However, the court may, on application by a party to the proceeding or on its own initiative, make an order (an ***exclusion order***) excluding from the room a person mentioned in subsection (1)(c)(ii), (iii) or (iv) if the court is satisfied that the order is necessary—

(a) to prevent prejudice to the proper administration of justice; or

(b) for the safety of any person, including the child.

(2A) In considering whether to make the exclusion order, the court must consider the following

[s 112]

matters—

- (a) the primacy of the principle of open justice;
- (b) the public interest;
- (c) the youth justice principles under the *Youth Justice Act 1992*;
- (d) the age of the child;
- (e) any special vulnerabilities of the child;
- (f) whether the child is unable to meaningfully participate in the proceeding because of the presence of the person proposed to be excluded by the exclusion order;
- (g) the seriousness of the offence alleged to have been committed by the child;
- (h) any cultural considerations relating to the child;
- (i) whether the presence of the person proposed to be excluded by the exclusion order may prejudice any future court proceedings;
- (j) any submissions made under subsection (4);
- (k) any other matter the court considers relevant.

(2B) The following persons may make submissions to the court in relation to the making of the exclusion order—

- (a) a party to the proceeding;
- (b) a person proposed to be excluded by the exclusion order;
- (c) another person mentioned in subsection (1), with the leave of the court.

(5) Section 20(3)(a)(ii)—

omit, insert—

-
- (ii) research approved by the chief executive (child safety) or the chief executive (youth justice); or
- (6) Section 20(3)(c)—
omit.
- (7) Section 20—
insert—
- (3A) Despite subsections (1) and (2), if the court is hearing a matter under the *Mental Health Act 2016*, section 172 or 173, the court must exclude from the room a person mentioned in subsection (1)(c) unless the court is satisfied it is in the interests of justice to permit the person to be present.
- (8) Section 20(6)—
insert—

accredited media entity means an entity listed as an accredited media entity in the Supreme Court’s media accreditation policy.

chief executive (youth justice) means the chief executive of the department in which the *Youth Justice Act 1992* is administered.

relative, of a deceased victim of an offence alleged to have been committed by a child, means—

- (a) a spouse, child, stepchild, parent, step-parent, sibling, step-sibling, aunt, uncle, grandparent or grandchild of the deceased victim; or
- (b) a child, other than a child mentioned in paragraph (a), for whom the deceased victim had parental responsibility; or

[s 112A]

- (c) a person who, under Aboriginal tradition or Island custom, is regarded as a person mentioned in paragraph (a) or (b).

Supreme Court's media accreditation policy means the media accreditation policy in effect and made under or appended to a practice direction of the Supreme Court.

- (9) Section 20(2A) to (6)—
renumber as section 20(3) to (9).

Division 1A Amendment of Family Responsibilities Commission Act 2008

112A Act amended

This division amends the *Family Responsibilities Commission Act 2008*.

112B Amendment of s 43 (Court advice notices)

- (1) Section 43(1)(b)—
omit, insert—
- (b) for a person convicted of an offence who is a child—the person is not a first-time offender; and
- (2) Section 43(1)(c)(iii), after ‘learns that’—
insert—
- the child or
- (3) Section 43(3)(b), after ‘is a child,’—
insert—
- the child or

(4) Section 43(3)—

insert—

- (c) for a convicted person who is a child—the court officer learns that the person is not a first-time offender.

(5) Section 43—

insert—

(3A) A person who has gained, gains or has access to, confidential information relating to a child through involvement in the administration of the *Youth Justice Act 1992* may disclose the information to the chief executive (justice) for the purpose of facilitating the giving of court advice notices.

(3B) To remove any doubt, it is declared that, for the *Youth Justice Act 1992*, section 301, neither of the following is publication of identifying information about a child—

- (a) giving a court advice notice under this section;
- (b) disclosing confidential information under subsection (4).

(6) Section 43(4), definitions *court officer* and *identifying information*—

omit.

(7) Section 43(4)—

insert—

chief executive (justice) means the chief executive of the department in which the *Attorney-General Act 1999* is administered.

court officer means—

- (a) for a court that convicts a person who is an adult—

[s 113]

- (i) for the District Court—the registrar of the court; or
 - (ii) for a Magistrates Court—the clerk of the court; or
 - (iii) for the Supreme Court—the registrar of the court; or
- (b) for a court that convicts a person who is a child—the chief executive (justice); or
- (c) for a court that makes a protection order against a person—the clerk of the court within the meaning of the *Domestic and Family Violence Protection Act 2012*.

first-time offender, in relation to a child convicted of an offence, means a child who has not previously been convicted of an offence.

- (8) Section 43(3A) to (4)—
renumber as section 43(4) to (6).

Division 2 Amendment of Police Powers and Responsibilities Act 2000

113 Act amended

This division amends the *Police Powers and Responsibilities Act 2000*.

114 Amendment of s 365 (Arrest without warrant)

Section 365(3), note—

omit, insert—

Note—

See also principle 18 of the youth justice principles in the *Youth Justice Act 1992*, schedule 1.

Division 3 Amendment of Youth Justice Act 1992

115 Act amended

This division amends the *Youth Justice Act 1992*.

116 Amendment of s 13 (Police officer's power of arrest preserved in particular general circumstances)

Section 13(1)(a), note—

omit, insert—

Note—

See also principle 18 of the youth justice principles.

117 Omission of s 40 (Admissibility of particular evidence)

Section 40—

omit.

118 Amendment of s 52A (Other conditions of release on bail)

(1) Section 52A(1), from 'decides'—

omit, insert—

is authorised or required under this Act or another Act to release a child in custody in connection with a charge of an offence.

(2) Section 52A(2), 'another condition on the grant of bail, other than a condition'—

omit, insert—

a condition on the grant of bail to the child, other than a condition under section 52(3) or a condition

[s 119]

119 Amendment of s 52AA (Court may impose monitoring device condition)

(1) Section 52AA(1)(c)—

omit, insert—

(c) the child—

- (i) has previously been found guilty of at least 1 indictable offence; or
- (ii) has, in the previous 12 months, been charged with a prescribed indictable offence and the charge—
 - (A) has not been dealt with by a court, withdrawn or otherwise discontinued; and
 - (B) does not arise out of the same, or the same set of, circumstances as the charge for the prescribed indictable offence mentioned in paragraph (b); and

(2) Section 52AA(11), definition *prescribed indictable offence*, paragraph (c)—

omit, insert—

- (c) an offence against any of the following provisions of the Criminal Code—
 - (i) section 69;
 - (ii) section 75;
 - (iii) section 315A;
 - (iv) section 323;
 - (v) section 328A;
 - (vi) section 339;
 - (vii) section 340, to the extent the offence is not of a type mentioned in paragraph (b);

- (viii) section 359;
- (ix) section 359E;
- (x) section 408A(1), if the offence involves a motor vehicle and the child charged with the offence was allegedly the driver of the motor vehicle;
- (xi) section 408A(1) to which section 408(1A) applies;
- (xii) section 412, to the extent the offence is not of a type mentioned in paragraph (a) or (b);
- (xiii) section 413;
- (xiv) section 414.

120 Insertion of new s 56A

After section 56—

insert—

56A Temporary transfer of child on remand

- (1) This section applies if—
 - (a) the commissioner of the police service has taken immediate custody of a child under section 56(2)(a); and
 - (b) the child has not been delivered into the custody of the chief executive under section 56(2)(b); and
 - (c) the child is in custody in a watch-house.
- (2) The chief executive may take the child into the temporary custody of the chief executive for the purpose of enabling the child to participate in activities, programs or services at a specified detention centre for a period on a specified day (the *temporary transfer period*).

[s 120]

- (3) However, the chief executive may take the child into the chief executive's temporary custody under subsection (2) only if—
 - (a) the child agrees; and
 - (b) the commissioner of the police service has agreed in writing.
- (4) In deciding whether to take the child into the chief executive's temporary custody under subsection (2), the chief executive must have regard to—
 - (a) the matters mentioned in section 56(4); and
 - (b) the practicality of transporting the child between the watch-house where the child is held in custody and the specified detention centre, including, for example, the distance between the watch-house and the detention centre and the availability of suitable transportation.
- (5) If the chief executive takes the child into the chief executive's temporary custody under subsection (2), the chief executive may ask the chief executive of another department prescribed by regulation to assist with the transportation of the child between the watch-house and the specified detention centre.
- (6) The chief executive must return the child to the custody of the commissioner of the police service before the end of the temporary transfer period unless—
 - (a) both of the following apply—
 - (i) the chief executive notifies the commissioner of the police service under section 56(3)(a) of the date from which delivery of the child into the chief executive's custody will be accepted (the *formal transfer date*);

- (ii) the formal transfer date is during the period the child is in the chief executive's temporary custody under this section; or
- (b) unforeseen circumstances reasonably prevent the return of the child to the custody of the commissioner.
- Examples of unforeseen circumstances—*
- a natural disaster prevents travel between the detention centre and the watch-house
 - the child requires urgent medical treatment and must stay in hospital
- (7) If the child is not returned to the custody of the commissioner of the police service under subsection (6)(b), the chief executive must—
- (a) inform the child and the commissioner as soon as reasonably practicable of the unforeseen circumstances and when the chief executive expects to return the child to the custody of the commissioner of the police service; and
- (b) return the child to the custody of the commissioner as soon as reasonably practicable unless—
- (i) the chief executive notifies the commissioner under section 56(3)(a) of the date from which delivery of the child into the chief executive's custody will be accepted (also the ***formal transfer date***); and
- (ii) the formal transfer date is before the child could be returned to the custody of the commissioner because of the unforeseen circumstances.
- (8) While the child is in the chief executive's temporary custody under this section, the child is

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taken to be detained in custody in the specified detention centre.

- (9) To remove any doubt, it is declared that the temporary transfer of custody of a child by the commissioner of the police service to the chief executive under this section does not constitute delivery of the child into the chief executive's custody under section 56(3).

121 Replacement of pt 6, div 12, heading (Some provisions about admissibility of childhood offences)

Part 6, division 12, heading—

omit, insert—

Division 12 Admissibility of particular evidence

122 Insertion of new s 148A

After section 148—

insert—

148A Admissibility of evidence obtained while participating in particular programs

- (1) The following are not admissible in evidence against a child in any civil, criminal or administrative proceeding—
- (a) an admission made by the child in the course of, for the purpose of, or as a condition of, participating in a youth justice program;
 - (b) evidence directly or indirectly derived from an admission mentioned in paragraph (a).
- (2) Subsection (1) does not apply to a proceeding for an offence committed or allegedly committed by the child while participating in a youth justice

program.

(3) The reference in subsection (1)(a) to an admission made by the child includes—

(a) any written material made by the child; and

Example—

a written apology given as a requirement of a conference agreement

(b) anything said or done by the child that makes it evident the child committed an offence.

(4) However, evidence that would otherwise be inadmissible in a proceeding because of subsection (1)—

(a) is admissible if the child agrees to its admission; or

(b) for evidence from participation in a conference or alternative diversion program—is admissible in a proceeding under part 7, division 2.

(5) In this section—

youth justice program means—

(a) a conference; or

(b) an alternative diversion program; or

(c) a program or service established by the chief executive under section 302.

123 Amendment of s 150 (Sentencing principles)

Section 150(2)(e), from ‘only’ to ‘period’—

omit, insert—

having regard to principle 18 of the youth justice principles

[s 124]

124 Insertion of new s 210A

After section 210—

insert—

210A Temporary transfer of child sentenced to period of detention

- (1) This section applies if—
 - (a) the commissioner of the police service has taken immediate custody of a child under section 210(2)(a); and
 - (b) the child has not been delivered into the custody of the chief executive under section 210(2)(b); and
 - (c) the child is in custody in a watch-house.
- (2) The chief executive may take the child into the temporary custody of the chief executive for the purpose of enabling the child to participate in the activities, programs or services at a specified detention centre for a period on a specified day (the *temporary transfer period*).
- (3) However, the chief executive may take the child into the chief executive's temporary custody under subsection (2) only if—
 - (a) the child agrees; and
 - (b) the commissioner of the police service has agreed in writing.
- (4) In deciding whether to take the child into the chief executive's temporary custody under subsection (2), the chief executive must have regard to—
 - (a) the matters mentioned in section 210(4); and
 - (b) the practicality of transporting the child between the watch-house where the child is held in custody and the specified detention centre, including, for example, the distance between the watch-house and the detention

centre and the availability of suitable transportation.

- (5) If the chief executive takes the child into the chief executive's temporary custody under subsection (2), the chief executive may ask the chief executive of another department prescribed by regulation to assist with the transportation of the child between the watch-house and the specified detention centre.
- (6) The chief executive must return the child to the custody of the commissioner of the police service before the end of the temporary transfer period unless—
- (a) both of the following apply—
- (i) the chief executive notifies the commissioner under section 210(3)(a) of the date from which delivery of the child into the chief executive's custody will be accepted (the *formal transfer date*);
- (ii) the formal transfer date is during the period the child is in the chief executive's temporary custody under this section; or
- (b) unforeseen circumstances reasonably prevent the return of the child to the custody of the commissioner.

Examples of unforeseen circumstances—

- a natural disaster prevents travel between the detention centre and the watch-house
 - the child requires urgent medical treatment and must stay in hospital
- (7) If the child is not returned to the custody of the commissioner of the police service under subsection (6)(b), the chief executive must—

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- (a) inform the child and the commissioner as soon as reasonably practicable of the unforeseen circumstances and when the chief executive expects to return the child to the custody of the commissioner; and
- (b) return the child to the custody of the commissioner as soon as reasonably practicable unless—
 - (i) the chief executive notifies the commissioner under section 210(3)(a) of the date from which delivery of the child into the chief executive’s custody will be accepted (also the *formal transfer date*); and
 - (ii) the formal transfer date is before the child could be returned to the custody of the commissioner because of the unforeseen circumstances.
- (8) While the child is in the chief executive’s temporary custody under this section, the child is taken to be detained in the specified detention centre.
- (9) To remove any doubt, it is declared that the temporary transfer of custody of a child by the commissioner of the police service to the chief executive under this section does not constitute delivery of the child into the chief executive’s custody under section 210(3).

125 Amendment of s 263A (Recordings in detention centres and use of body-worn cameras)

- (1) Section 263A(3)(g), second occurrence—
renumber as section 263A(3)(h).
- (2) Section 263A(3)—
insert—

-
- (i) the human rights commissioner.
- (3) Section 263A(4), after ‘else’—
insert—
- unless—
- (a) the recording of the conversation is made for a purpose, and in accordance with the requirements, prescribed by regulation; and
 - (b) the conversation is not between a child detained in the detention centre and a person mentioned in subsection (3).

126 Replacement of pt 8, div 2A (Age related transfers to corrective services facilities)

Part 8, division 2A—

omit, insert—

**Division 2A Transfer of detainees to
corrective services
facilities**

Subdivision 1 Preliminary

276A Definitions for division

In this division—

detainee includes a person liable to serve a period of detention under this Act.

prison transfer notice see section 276F(2).

review application, for subdivision 4, see section 276J(2).

temporary delay means a delay of 6 months or less.

276B Particular detainees liable to be transferred to corrective services facility

- (1) The following persons are liable to be transferred from a detention centre to a corrective services facility under this division—
 - (a) a person in detention who turns 18 years while serving a period of detention;
 - (b) a person beginning detention who is 18 years or older when beginning detention;
 - (c) a person who is remanded in custody in detention in relation to a charge of an offence and who turns 18 years during the period of remand;
 - (d) a person who is 18 years or older when remanded in custody in detention in relation to a charge of a child offence.
- (2) In this section—

beginning detention includes returning to detention to continue or complete a period of detention because of a contravention of a conditional release order or supervised release order.

child offence means an offence committed by a child.

Subdivision 2 Decision about giving prison transfer notice

276C Decision by chief executive about giving prison transfer notice

- (1) This section applies if the chief executive becomes aware that a detainee—

- (a) is liable to be transferred to a corrective services facility under section 276B; or
 - (b) is at least 17 years and 10 months and will be liable to be transferred to a corrective services facility under section 276B.
- (2) The chief executive must decide, on the basis of the information available to the chief executive, whether—
 - (a) to give the detainee a prison transfer notice as soon as practicable; or
 - (b) to temporarily delay giving the detainee a prison transfer notice; or
 - (c) to not give the detainee a prison transfer notice.
- (3) The chief executive may decide to temporarily delay giving the detainee a prison transfer notice, or to not give the detainee a prison transfer notice, only if the chief executive is satisfied—
 - (a) there are special circumstances; and
 - (b) the decision would not cause the detainee to be detained at a detention centre after the detainee turns 18 years and 6 months.
- (4) Without limiting the matters the chief executive may have regard to, the chief executive must have regard to the following matters in making a decision mentioned in subsection (2)—
 - (a) any vulnerability of the detainee;
 - (b) any interventionist, rehabilitation or similar activities being undertaken by the detainee and the availability of those activities if the detainee is transferred;
 - (c) whether the decision would prejudice the security or good order of the detention

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centre at which the detainee is, or is to be, detained;

- (d) whether the decision would prejudice the safety or wellbeing of any detainee at the detention centre at which the detainee is, or is to be, detained.
- (5) This section does not apply if a court has made an order under section 136(2) or 139(2), or subdivision 5, in relation to the detainee.

276D Notice of decision to delay giving, or not to give, prison transfer notice

- (1) This section applies if the chief executive makes a decision mentioned in—
 - (a) section 276C(2)(b) to temporarily delay giving the detainee a prison transfer notice; or
 - (b) section 276C(2)(c) to not give the detainee a prison transfer notice.
- (2) As soon as reasonably practicable after making the decision, the chief executive must give the detainee written notice of the decision including reasons for the decision.
- (3) Also, the notice must state that a prison transfer notice will not be given to the detainee, or that a prison transfer notice will not be given to the detainee before a specified date, unless—
 - (a) a circumstance relevant to the chief executive's decision no longer exists; or
 - (b) the detainee poses a risk to the safety or wellbeing of any detainee at the detention centre at which the detainee is, or is to be, detained; or

- (ba) the detainee poses a risk to the security or good order of the detention centre at which the detainee is, or is to be, detained; or
- (c) the detainee requests to be given a prison transfer notice.

Subdivision 3 Giving of prison transfer notice

276E Application of subdivision

This subdivision applies in relation to a detainee who—

- (a) is liable to be transferred to a corrective services facility under section 276B; or
- (b) is at least 17 years and 10 months and will be liable to be transferred to a corrective services facility under section 276B.

276F Giving prison transfer notice

- (1) The chief executive—
 - (a) must give the detainee a prison transfer notice if the chief executive has decided under section 276C(2)(a) to give the detainee a prison transfer notice as soon as practicable; or
 - (b) must give the detainee a prison transfer notice if the detainee has requested that the chief executive give the detainee a prison transfer notice; or
 - (c) if a court has made an order under section 136(2) or 139(2), or subdivision 5 in relation to the detainee—may give the detainee a prison transfer notice only if the chief

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- executive is satisfied there has been a significant change in the circumstances of the detainee since the court made the order;
or
- (d) if the chief executive has made a decision mentioned in section 276C(2)(b) or (c) in relation to the detainee—may give the detainee a prison transfer notice if the chief executive considers section 276D(3)(a), (b) or (ba) applies.
- (2) A **prison transfer notice** is a written notice stating the following matters—
- (a) the day the detainee will be transferred to a corrective services facility (the **transfer day**);
- (b) the interventionist, rehabilitation or similar activities that will be available for the detainee at the corrective services facility;
- (c) any information of which the chief executive is aware that is relevant to the matters mentioned in section 276C(4)(c) and (d);
- (d) if the detainee is serving a period of detention—
- (i) the period of detention the detainee remains liable to serve; and
- (ii) the day on which the detainee is required to be released from detention under section 227;
- (e) that the detainee may make submissions to the chief executive about the transfer, and may apply to the chief executive under subdivision 4 for a review of the chief executive’s decision, within 5 business days of—

- (i) if the detainee has consulted a lawyer in accordance with section 276G—the day of the consultation; or
 - (ii) if the detainee has refused to consult a lawyer in accordance with section 276G—the day of the refusal;
 - (f) if the notice is given under subsection (1)(c)—a description of the significant change in circumstances;
 - (g) if the notice is given under subsection (1)(d)—a description of the matters mentioned in section 276D(3)(a), (b) or (ba) which formed the basis of the chief executive’s decision.
- (3) The transfer day must be a day at least 1 month after—
- (a) the day the detainee turns 18 years; or
 - (b) if the detainee is 18 years or over at the time the prison transfer notice is given to the detainee—the day the notice is given to the detainee.
- (4) If the prison transfer notice is given under subsection (1)(b), the chief executive must give the prison transfer notice to the detainee within 5 business days of the day of the detainee’s request.

276G Chief executive to facilitate consultation with lawyer

- (1) As soon as reasonably practicable after a prison transfer notice is given to the detainee under section 276F, the chief executive must facilitate a consultation between the detainee and a lawyer.
- (2) Subsection (1) does not apply if the detainee refuses the consultation.

276H Copy of prison transfer notice to be given to chief executive (corrective services)

The chief executive must give the chief executive (corrective services) a copy of the prison transfer notice as soon as reasonably practicable after the notice is given to the detainee.

276I When detainee may be transferred

- (1) The chief executive must not transfer the detainee to a corrective services facility in accordance with the prison transfer notice until at least 10 business days after the day the detainee consulted a lawyer, or refused to consult a lawyer, in accordance with section 276G.
- (2) Subsection (1) does not apply if the detainee is transferred to the corrective services facility earlier with the detainee's agreement.
- (3) This section applies subject to sections 276M and 276W.

Subdivision 4 Review by chief executive

276J Application to chief executive for review

- (1) A detainee given a prison transfer notice may apply to the chief executive for a review of the chief executive's decision to give the detainee the prison transfer notice.
- (2) An application made under subsection (1) is a *review application*.
- (3) The review application must be made within 5 business days of—
 - (a) if the detainee consulted a lawyer in accordance with section 276G—the day of the consultation; or

- (b) if the detainee refused to consult a lawyer in accordance with section 276G—the day of the refusal.
- (4) On receipt by the chief executive of the review application, the detainee’s transfer is stayed until the application is decided, withdrawn or otherwise ends.

276K Chief executive to decide application

- (1) The chief executive may decide to temporarily delay the transfer of the detainee, or not to transfer the detainee, to a corrective services facility under the notice only if the chief executive is satisfied—
 - (a) there are special circumstances; and
 - (b) the decision would not cause the detainee to be detained in a detention centre after the detainee turns 18 years and 6 months.
- (2) Without limiting the matters the chief executive may have regard to, the chief executive must have regard to the following matters in making a decision under subsection (1)—
 - (a) any submissions made by the detainee within the period stated in the prison transfer notice under section 276F(2)(e);
 - (b) any vulnerability of the detainee;
 - (c) any interventionist, rehabilitation or similar activities being undertaken by the detainee and the availability of those activities if transferred;
 - (d) whether a decision to delay the transfer of, or not to transfer, the detainee would prejudice the security or good order of the detention centre at which the detainee is, or is to be, detained;

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- (e) whether a decision to delay the transfer of, or not to transfer, the detainee would prejudice the safety or wellbeing of any detainee at the detention centre at which the detainee is, or is to be, detained.

276L Action to be taken by chief executive after deciding application

- (1) If the chief executive makes a decision under section 276K(1), the chief executive must—
 - (a) if the decision is to temporarily delay the transfer—decide a new day for the transfer of the detainee to a corrective services facility (the *new transfer day*); and
 - (b) inform the chief executive (corrective services) of—
 - (i) if the decision is to temporarily delay the transfer—the new transfer day; or
 - (ii) if the decision is not to transfer the detainee—the decision.
- (2) The new transfer day must be a day—
 - (a) after the transfer day stated in the prison transfer notice; and
 - (b) no earlier than when the detainee becomes liable to be transferred to a corrective services facility under section 276B; and
 - (c) no later than 6 months after the detainee turns 18 years.
- (3) As soon as reasonably practicable after deciding the review application, the chief executive must—
 - (a) give the detainee notice of the decision, including, if the decision is to temporarily delay the transfer, notice of the new transfer day; and

- (b) give the detainee reasons in writing for the decision; and
- (c) facilitate a consultation between the detainee and a lawyer unless the detainee refuses the consultation; and
- (d) if the decision is not to change the decision the subject of the review application—inform the detainee of the right of review under subdivision 6.

276M When detainee may be transferred

- (1) After the review application has been decided, the chief executive must not transfer the detainee to a corrective services facility in accordance with the prison transfer notice that is the subject of the application before—
 - (a) if the chief executive decides to temporarily delay the transfer—the new transfer day decided under section 276L(1)(a); or
 - (b) if the chief executive decides not to change the decision the subject of the review application—the day that is 10 business days after the day the detainee consulted a lawyer, or refused to consult a lawyer, in accordance with section 276L(3)(c).
- (2) However, if the chief executive decides not to transfer the detainee to a corrective services facility, the chief executive must not transfer the detainee to a corrective services facility.
- (3) Subsection (1) does not apply if the detainee is transferred to the corrective services facility earlier with the detainee’s agreement.

276N Chief executive's power to give new prison transfer notice—significant change in circumstances

- (1) After deciding the review application, the chief executive may give the detainee a further prison transfer notice (a *new prison transfer notice*) only if the chief executive is satisfied there has been a significant change in circumstances of the detainee since the chief executive made the decision.
- (2) If the chief executive is satisfied there has been a significant change in circumstances of the detainee since the making of the decision, the new prison transfer notice must state the significant change in circumstances.
- (3) If the new prison transfer notice is given to the detainee—
 - (a) subdivisions 2 and 3 apply, for the giving of the notice, as if the notice were given under section 276F(1)(a) except that the transfer day stated in the notice must be at least 1 month after the new prison transfer notice is given; and
 - (b) the prison transfer notice that was the subject of the review application ceases to have effect.

Subdivision 5 Temporary delay of transfer—application to sentencing court

276O Persons to whom subdivision applies

This subdivision applies if, when a court makes a detention order against a person for an offence, the person becomes liable to be transferred to a

corrective services facility under section 276B.

276P Application to sentencing court for temporary delay of transfer

The person may immediately apply to the court for an order to delay the person's transfer to a corrective services facility for a period of 6 months or less.

276Q Court to decide application

- (1) The court may grant the application only if satisfied—
 - (a) there are special circumstances; and
 - (b) the delay would not cause the person to be detained in a detention centre after the person turns 18 years and 6 months.
- (2) Without limiting the matters the court may have regard to, the court must have regard to the following matters in deciding the application—
 - (a) any vulnerability of the person;
 - (b) any interventionist, rehabilitation or similar activities being undertaken by the person and the availability of those activities if transferred;
 - (c) whether a decision to delay the transfer of the person would prejudice the security or good order of the detention centre at which the person is, or is to be, detained;
 - (d) whether a decision to delay the transfer of the person would prejudice the safety or wellbeing of any detainee at the detention centre at which the person is, or is to be, detained.
- (3) If the court grants the application—

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- (a) the court must decide a day for the transfer of the person to a corrective services facility (the *new transfer day*); and
 - (b) the chief executive must inform the chief executive (corrective services) of the new transfer day.
- (4) If the chief executive agrees to the application—
- (a) subsections (1) and (2) do not apply; and
 - (b) the court's proper officer may grant the application.
- (5) If the court's proper officer grants the application under subsection (4)—
- (a) the court's proper officer must decide a day for the transfer of the person to a corrective services facility (also the *new transfer day*); and
 - (b) the chief executive must inform the chief executive (corrective services) of the new transfer day.
- (6) For this section, the new transfer day must be a day—
- (a) no earlier than the day that is 1 month after the person becomes liable to be transferred to a corrective services facility under section 276B; and
 - (b) no more than 6 months after the detainee turns 18 years.

276R When detainee may be transferred if application granted

If the court grants the application, the chief executive may transfer the person to a corrective services facility as soon as reasonably practicable on or after the new transfer day decided under

section 276Q(3)(a) or (5)(a).

Subdivision 6 Review by Childrens Court of chief executive's decision

276S Application of subdivision

This subdivision applies if the chief executive decides, on a review application made by a detainee under subdivision 4, not to change the decision of the chief executive to give the detainee the prison transfer notice the subject of the review application.

276T Application for review by Childrens Court

- (1) The detainee may apply to the Childrens Court for a review of the chief executive's decision.
- (2) The application for review must be made within 5 business days of—
 - (a) if the detainee consulted a lawyer in accordance with section 276L(3)(c)—the day of the consultation; or
 - (b) if the detainee refused to consult a lawyer in accordance with section 276L(3)(c)—the day of the refusal.
- (3) On receipt by the Childrens Court of the application, the detainee's transfer is stayed until the application is decided, withdrawn or otherwise ends.

276U Childrens Court to hear and decide application

- (1) The Childrens Court must hear and decide a

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review of the chief executive's decision by way of a fresh hearing on the merits.

- (2) The Childrens Court may—
 - (a) decide that the detainee not be transferred to a corrective services facility; or
 - (b) affirm the transfer day stated in the prison transfer notice given to the detainee; or
 - (c) decide a new day for the transfer of the detainee to a corrective services facility for the purposes of the prison transfer notice (the *new transfer day*).
- (3) The new transfer day must be a day—
 - (a) no earlier than the day the detainee becomes liable to be transferred to a corrective services facility under section 276B; and
 - (b) no more than 6 months after the detainee turns 18 years.
- (4) The proceeding on the application must be heard by the Childrens Court constituted by a Childrens Court judge.

276V Notice of decision to be given to chief executive (corrective services)

As soon as reasonably practicable after the Childrens Court decides a new transfer day for the detainee under section 276U(2)(c), the chief executive must inform the chief executive (corrective services) of the new transfer day.

276W Chief executive's power to transfer detainee

- (1) The chief executive may transfer the detainee to a corrective service facility in accordance with the prison transfer notice the subject of the application as soon as reasonably practicable on

or after—

- (a) if the Childrens Court affirmed the transfer day stated in the prison transfer notice—the stated transfer day; or
 - (b) if the Childrens Court decided a new transfer day under section 276U(2)(c)—the new transfer day.
- (2) Subsection (1) does not apply if the chief executive decides that the detainee not be transferred to a corrective services facility.

276X When chief executive may give new prison transfer notice—significant change in circumstances

- (1) If the Childrens Court decided that the detainee should not be transferred to a corrective services facility under section 276U(2)(a) or decided a new transfer day for the detainee under section 276U(2)(c), the chief executive may not give the detainee a further prison transfer notice (a *new prison transfer notice*) unless the chief executive is satisfied there has been a significant change in circumstances since the court’s decision.
- (2) If the chief executive is satisfied there has been a significant change in circumstances since the court’s decision, the new prison transfer notice must state the significant change in circumstances.
- (3) If the new prison transfer notice is given to the detainee—
 - (a) subdivisions 2 and 3 apply, for the giving of the notice, as if the notice were given under section 276F(1)(a) except that the transfer day stated in the notice must be at least 1 month after the new prison transfer notice is given; and

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- (b) the prison transfer notice that was the subject of the review application ceases to have effect.

Subdivision 7 Other provisions

276Y Persons over 18 years and 6 months should not be detained at a detention centre

- (1) This Act is subject to the overriding principle that it is in the best interests of the welfare of all detainees at a detention centre that persons who are 18 years and 6 months or older are not detained at the centre.
- (2) To give effect to the principle—
 - (a) a person who is 18 years and 6 months or older must not—
 - (i) enter a detention centre to begin serving a period of detention; or
 - (ii) return to a detention centre to continue or complete a period of detention, including, for example, returning because of a contravention of a conditional release order or supervised release order; and
 - (b) an application for a temporary delay of a transfer and a review application is of no effect if the applicant is 18 years and 6 months or older; and
 - (c) an application for a temporary delay of a transfer and a review application lapses when the applicant turns 18 years and 6 months.
- (3) If the application of subsection (2)(a) prevents a person from being detained at a detention centre,

the person must instead be held at a corrective services facility.

- (4) This section applies despite anything else in this Act.
- (5) In this section—

application for a temporary delay of a transfer means an application made under subdivision 5.

review application means an application made under subdivision 4 or 6.

276Z Application of Corrective Services Act 2006

- (1) This section applies in relation to a person—
 - (a) who is transferred to a corrective services facility under subdivision 3, 4, 5 or 6; or
 - (b) who is being held at a corrective services facility under section 276Y.
- (2) For holding the person at a corrective services facility—
 - (a) the person is taken to be a prisoner subject to the *Corrective Services Act 2006*; and
 - (b) any rights, liberties or immunities of the person as a detainee are not preserved, transferred or otherwise applicable for the person as a prisoner; and
 - (c) if the person is serving a period of detention, or liable to serve a period of detention—
 - (i) the person is liable to serve a term of imprisonment equal to the period of detention the person remains liable to serve on the transfer; and
 - (ii) the day the person would otherwise have been released under section 227, for the period of detention, is the day

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the person is to be released on parole under the *Corrective Services Act 2006*.

- (3) However, the release of the person is subject to the *Corrective Services Act 2006* as if granted under a court ordered parole order (the **statutory parole order**) and the provisions of that Act applying to parole orders also apply to the statutory parole order.

127 Insertion of new s 279B

After section 279A—

insert—

279B Photographing detainees and parts of a detention centre

- (1) A person must not photograph or attempt to photograph—
- (a) a detainee inside a detention centre; or
 - (b) a part of a detention centre.

Maximum penalty (subject to part 7)—100 penalty units or 2 years imprisonment.

- (2) A person does not commit an offence against subsection (1) if the person is—
- (a) for subsection (1)(a)—the detainee's lawyer; or
 - (b) a child advocacy officer; or
 - (c) a community visitor (child); or
 - (d) an officer of a law enforcement agency; or
 - (e) a person who is—
 - (i) a member of the UN subcommittee; or

- (ii) accompanying the UN subcommittee as a UN expert, interpreter or other person assisting the subcommittee; or
 - (f) the human rights commissioner; or
 - (g) the inspector of detention services; or
 - (h) the ombudsman; or
 - (i) the public guardian; or
 - (j) a person who has the chief executive's written approval to carry out the activity mentioned in subsection (1); or
 - (k) the chief executive, or a detention centre employee authorised by the chief executive, who is carrying out the activity under section 263A.
- (3) The chief executive may give approval to a person under subsection (2)(j) subject to any conditions the chief executive considers appropriate.
- (4) Without limiting the matters the chief executive may have regard to, the chief executive must have regard to the following matters in deciding whether to give a person approval under subsection (2)(j)—
- (a) the public interest;
 - (b) any vulnerability of the detainee or any other person who may be affected by the activity;
 - (c) the potential for the activity to prejudice current or future legal proceedings;
 - (d) the potential for the activity to prejudice the security or good order of a detention centre;
 - (e) the potential for the activity to prejudice the safety or wellbeing of the detainee or another person.

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(5) In this section—

photograph includes record or create a visual image other than by photography.

128 Amendment of s 285 (When does someone gain information through involvement in the administration of this Act)

(1) Section 285(1)—

insert—

(k) a WHS entry permit holder performing a function under the *Work Health and Safety Act 2011* in relation to a detention centre.

(2) Section 285(3)—

insert—

WHS entry permit holder see the *Work Health and Safety Act 2011*, schedule 5.

129 Amendment of s 287 (Application)

Section 287—

insert—

(2) This division also applies to a person who has gained, gains, or has access to, confidential information relating to a child for the purpose of, or in the course of, providing counselling or support to a victim of an offence.

130 Amendment of s 289 (Recording, use or disclosure for authorised purpose)

(1) Section 289—

insert—

(ca) if the person is a person mentioned in section 287(2) and the information was

obtained from a victim of an offence, for the purpose of providing counselling or support to the victim; or

- (2) Section 289(ca) to (i)—
renumber as section 289(d) to (j).

130A Amendment of s 301S (Particular entities to be notified about declaration)

Section 301S(2)(g)—
omit, insert—

- (g) the human rights commissioner;

131 Insertion of new pt 11, div 24

Part 11—
insert—

Division 24 Transitional provisions for Queensland Community Safety Act 2024

421 Definitions for division

In this division—

amended, for a provision in this Act, means the provision as amended by the amending Act.

amending Act means the *Queensland Community Safety Act 2024*.

former, for a provision of this Act, means the provision as in force immediately before the commencement.

422 Application of amended bail provisions

Amended sections 52A and 52AA apply in relation to a child in connection with a charge of an offence whether the offence was allegedly committed, or the child was charged, or any step in the proceeding was taken, before or after the commencement.

423 Application of s 56A to child remanded in custody before commencement

Section 56A applies to a child who—

- (a) before the commencement, was remanded in custody; and
- (b) on the commencement, is held in custody in a watch-house by the commissioner of the police service under section 56(2).

424 Application of s 210A to child sentenced to detention before commencement

Section 210A applies to a child who—

- (a) before the commencement, was sentenced to serve a period of detention in a detention centre; and
- (b) on the commencement, is held in a watch-house by the commissioner of the police service under section 210(2).

425 Application of amended pt 8, div 2A

Subject to sections 426 to 428, amended part 8, division 2A applies in relation to a detainee—

- (a) whether the detainee started to be detained before or after the commencement; or

- (b) whether the detainee started to be remanded in custody before or after the commencement.

426 Continued application of former pt 8, div 2A—existing directions and notices

- (1) This section applies if—
 - (a) before the commencement, the chief executive—
 - (i) gave a prison transfer direction to a person under section 276C as in force before the commencement; or
 - (ii) gave a person a prison transfer notice under section 276H as in force before the commencement; and
 - (b) immediately before the commencement, the person is detained in a detention centre.
- (2) Former part 8, division 2A continues to apply in relation to the person, as if the amending Act had not been enacted.

427 Continued application of former pt 8, div 2A—existing court orders

- (1) This section applies if—
 - (a) before the commencement, a court decided an application in relation to a person under section 276D as in force before the commencement; and
 - (b) immediately before the commencement, the person is detained in a detention centre.
- (2) Former part 8, division 2A continues to apply in relation to the person as if the amending Act had not been enacted.

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428 Continued application of former pt 8, div 2A—existing court applications

- (1) This section applies if, before the commencement—
 - (a) an application to a court for a temporary delay under section 276D, as in force before the commencement, had been started but not decided; or
 - (b) an application to the Childrens Court for a review under section 276DB or section 276J, as in force before the commencement, had been started but not decided.
- (2) The court may continue to hear, and decide, the application under former part 8, division 2A as if the amending Act had not been enacted.

132 Amendment of sch 1 (Charter of youth justice principles)

- (1) Schedule 1, item 18—

omit, insert—

18 A child should be detained in custody—

- (a) where necessary, including to ensure community safety, and where other non-custodial measures of prevention and intervention would not be sufficient; and
- (b) for no longer than necessary to meet the purpose of detention.

- (2) Schedule 1, item 21(f), ‘and therapeutic’—

omit, insert—

, therapeutic and disability

133 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *detainee* and *prison transfer direction*—

omit.

(2) Schedule 4—

insert—

detainee—

(a) generally, means a person—

(i) being held on remand, in the chief executive's custody, in connection with a charge of an offence; or

(ii) serving a period of detention, in a detention centre, for an offence; or

(iii) otherwise being held in custody in a detention centre; and

(b) for part 8, division 2A, see section 276A.

human rights commissioner means the Human Rights Commissioner under the *Anti-Discrimination Act 1991*.

prison transfer notice, for part 8, division 2A, see section 276F(2).

review application, for part 8, division 2A, subdivision 4, see section 276J(2).

(3) Schedule 4, definition *temporary delay*, 'subdivision 1,'—

omit.

[s 133A]

Part 4A Miscellaneous

Division 1 Amendment of Maritime Safety Queensland Act 2002

133A Act amended

This division amends the *Maritime Safety Queensland Act 2002*.

133B Amendment of s 10 (Appointment of general manager)

Section 10(2), after ‘employed’—

insert—

as a senior executive

133C Insertion of new s 11B

After section 11A—

insert—

11B Acting general manager

- (1) The Minister may appoint an appropriately qualified person to act in the office of general manager if—
 - (a) there is a vacancy in the office of general manager; or
 - (b) the general manager is absent from duty or, for another reason, can not perform the duties of the office.
- (2) The person may be appointed to act in the office for a term of not more than 6 months.
- (3) The person may be reappointed to act in the office—

-
- (a) if the appointment is continuous on 1 or more of the person's previous appointments as acting general manager and the total period of continuous appointments is not more than 6 months—by the Minister; or
 - (b) otherwise—by the Governor in Council.
- (4) A person appointed or reappointed by the Minister under this section holds office on the terms and conditions, including remuneration and allowances, decided by the Minister.
- (5) This section does not otherwise limit or affect the application of the *Acts Interpretation Act 1954*, section 24B or 25 for the appointment.

133D Amendment of pt 5, hdg (Transitional provisions)

Part 5, heading, after 'Transitional'—

insert—

and validation

133E Insertion of new pt 5, div 4

Part 5—

insert—

**Division 4 Validation provision for
Queensland Community
Safety Act 2024**

22 Particular appointments to office of general manager

- (1) This section applies in relation to a person who, at any time before 24 April 2024—
- (a) was purportedly employed as general manager without having been appointed to

[s 133E]

the office of general manager under this Act;
or

- (b) was purportedly employed to act in the office of general manager without having been appointed to act in the office of general manager under this Act.

(2) It is declared that—

- (a) despite section 10, the person is taken to have been validly appointed to the office of general manager, or to act in the office, under this Act for the period the person was purportedly employed as mentioned in subsection (1); and
- (b) a contract of employment entered into between the person and the chief executive before 24 April 2024 is as valid as it would have been had the person been validly appointed to the office of general manager, or to act in the office, under this Act when the contract was entered into; and
- (c) each relevant exercise of power by the person or MSQ is, and always has been, as valid as it would be or would have been had the person been validly appointed to the office of general manager, or to act in the office, under this Act; and
- (d) anything done by an entity relying on the validity of a decision made, or other thing done, before 24 April 2024 by the person or MSQ is, and always has been, as valid as it would be or would have been had the person been validly appointed to the office of general manager, or to act in the office, under this Act when the decision was made or other thing done.

(3) In this section—

done includes purportedly done.

exercise or performance includes purported exercise or performance.

made includes purportedly made.

relevant exercise of power means an exercise or performance, before 24 April 2024, of a power or function conferred on, or delegated or subdelegated to, the general manager or MSQ, including the making of a decision, under this Act or another Act.

Examples of other Acts—

- the *Transport Infrastructure Act 1994*
- the *Transport Operations (Marine Pollution) Act 1995*
- the *Transport Operations (Marine Safety) Act 1994*
- the domestic commercial vessel national law under the *Transport Operations (Marine Safety—Domestic Commercial Vessel National Law Application) Act 2016*
- the *Transport Planning and Coordination Act 1994*

Division 2 **Amendment of Police Powers and Responsibilities Act 2000**

133F Act amended

This division amends the *Police Powers and Responsibilities Act 2000*.

133G Amendment of s 609A (Use of body-worn cameras)

Section 609A, ‘or protective services officer’—

omit, insert—

, protective services officer or watch-house officer

[s 133H]

133H Amendment of s 149A (Definitions for chapter)

- (1) Section 149A, definition *specified person*, item (1), after ‘established,’—

insert—

or that is otherwise lawfully seized under this Act and removed from a place,

- (2) Section 149A, definition *specified person*, item (1), paragraph (a)—

omit, insert—

(a) a person reasonably suspected of having committed an offence in relation to which—

- (i) the search warrant is or was issued; or
- (ii) the crime scene is or was established; or
- (iii) the device was otherwise lawfully seized under this Act and removed from the place.

133I Amendment of s 549 (Meaning of *state building*)

- (1) Section 549(1)(a)(ii), ‘this definition; and’—

omit, insert—

this subparagraph; or

- (2) Section 549(1)(a)—

insert—

(iii) a building, or part of a building, prescribed by regulation that is located in a local government area prescribed by regulation for the purpose of this subparagraph; and

- (3) Section 549(3), from ‘only if’—

omit, insert—

only if—

-
- (a) for a building, or part of a building mentioned in subsection (1)(a)(ii)—the building or part of the building is to be used for an activity with which the State is directly concerned; or
 - (b) for a building, or part of a building mentioned in subsection (1)(a)(iii)—the building or part of the building is to be used for an activity with which the local government that governs the local government area is directly concerned.

133J Insertion of new ch 24, pt 27

Chapter 24—

insert—

Part 27 Validation provision for Queensland Community Safety Act 2024

900 Validation of orders made under s 154A

- (1) This section applies in relation to an order made under section 154A before the commencement.
- (2) The order is, and is taken to have always been, as valid as it would have been if, at the time it was made, the definition of specified person under section 149A, as amended by the *Queensland Community Safety Act 2024*, was in force.

133K Amendment of sch 6 (Dictionary)

Schedule 6, definition *specified person*, after ‘established,’—

insert—

[s 134]

or that is otherwise lawfully seized under this Act
and removed from a place,

Part 5 Other amendments

134 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 134

Criminal Code

1AA Section 552A(1)(b)(iii), ‘335(2)(a)’—

omit, insert—

335(3)(a)

1AB Section 552BA(4), definition *relevant offence*, paragraph (aa), ‘335(2)(a)’—

omit, insert—

335(3)(a)

1 Section 552BB, table, entry for section 408A, column 3, ‘section 408A(1A)’—

omit, insert—

section 408A(2)

2 Section 552BB, table, entry for section 408A, column 3, ‘408A(1C)(b)(i) or (ii)’—

omit, insert—

408A(4)(b)(i) or (ii)

3 Section 552BB, table, entry for section 408A, column 3, ‘408A(1C)(b)(iv)’—

omit, insert—

408A(4)(b)(iv)

4 Section 552BB, table, entry for section 419(4), columns 1 and 3, '419(4)'—

omit, insert—

419(5)

5 Section 758(1), 'section 408A(1B)'—

omit, insert—

section 408A(3)

6 Section 759, 'section 408A(1B)'—

omit, insert—

section 408A(3)

7 Section 759, 'section 408A(1D) and (1E)'—

omit, insert—

section 408A(6) and (7)

Fire Services Act 1990

1 Section 137(3), 'subsection (3)'—

omit, insert—

subsection (2)

2 Section 141(2), 'section 138(2)'—

omit, insert—

section 139(2)

Police Powers and Responsibilities Act 2000

- 1 Sections 314(1), 808A(1) and 808B(1), after ‘each financial year,’—**

insert—

but no later than 30 September,

- 2 Section 358(4), from ‘and within’ to ‘the financial year’—**

omit, insert—

but no later than 30 September

- 3 Schedule 6, definitions *commencement, post-amended Act* and *pre-amended Act*—**

omit.

Police Service Administration Act 1990

- 1 Section 4.10—**

insert—

Note—

See the *Weapons Act 1990*, section 141ZV for limitations on the delegation of powers under section 141G of that Act.

Public Safety Preservation Act 1986

- 1 Section 43I(1), from ‘Within’ to ‘each financial year’—**

omit, insert—

As soon as practicable after the end of each financial year, but no later than 30 September

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