



Serious and Organised Crime Legislation Amendment Bill 2016



Queensland

Serious and Organised Crime Legislation Amendment Bill 2016

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2016

A Bill

for

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

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Serious and Organised Crime
Legislation Amendment Act 2016*. 4
5

Clause 2 Commencement 6

- (1) The following provisions commence on the day that is 3 7
months after the date of assent— 8
- part 7, division 3 9
 - part 17 10
 - part 18 11
 - part 21, division 3 12
 - part 22 13
 - section 396(4) to (7) 14
 - part 30, division 3 15
 - schedule 1, part 2. 16
- (2) Part 7 , division 4, commences on the day that is 2 years after 17
the date of assent. 18

Part 2 Amendment of Bail Act 1980 19

Clause 3 Act amended 20

This part amends the *Bail Act 1980*. 21

Clause 4	Amendment of s 6 (Definitions)	1
	(1) Section 6, definitions <i>criminal organisation</i> and <i>participant</i> —	2
	<i>omit.</i>	3
	(2) Section 6, definition <i>court</i> , paragraph (d), ‘acting under section 15A or’—	4
	<i>omit.</i>	5
		6
Clause 5	Amendment of s 11 (Conditions of release on bail)	7
	Section 11(2)(b)—	8
	<i>insert—</i>	9
	<i>Examples of special conditions for paragraph (b)(ii)—</i>	10
	• a special condition that prohibits a person from associating with a stated person or a person of a stated class	11
		12
		13
	• a special condition that prohibits a person from entering or being in the vicinity of a stated place or a place of a stated class	14
		15
		16
Clause 6	Omission of s 15A (Conduct of proceeding by Magistrates Court outside district or division)	17
	Section 15A—	18
	<i>omit.</i>	19
		20
Clause 7	Amendment of s 16 (Refusal of bail)	21
	(1) Section 16(3)(e)—	22
	<i>omit, insert—</i>	23
	(e) with an offence against the <i>Penalties and Sentences Act 1992</i> , section 161ZI or the	24
	<i>Peace and Good Behaviour Act 1982</i> ,	25
	section 32; or	26
		27
	(2) Section 16(3A) to (3D)—	28
	<i>omit.</i>	29

[s 8]

(3) Section 16(4), ‘or (3A)’—	1
omit.	2

Clause 8	Amendment of s 20 (Undertaking as to bail)	3
	Section 20(10), definition <i>passport surrender condition</i> —	4
	omit, insert—	5
	<i>passport surrender condition</i> , for a defendant,	6
	means a special condition under section 11(2) that	7
	includes a requirement that the defendant	8
	surrender the defendant’s current passport.	9

Part 3	Amendment of Child Protection	10
	(Offender Reporting) Act 2004	11

Clause 9	Act amended	12
	This part amends the <i>Child Protection (Offender Reporting)</i>	13
	<i>Act 2004</i> .	14

Clause 10	Amendment of sch 1 (Prescribed offences)	15
	Schedule 1, item 4—	16
	insert—	17
	• section 228DA (Administering child	18
	exploitation material website)	19
	• section 228DB (Encouraging use of child	20
	exploitation material website)	21
	• section 228DC (Distributing information	22
	about avoiding detection)	23

Part 4	Amendment of Corrective Services Act 2006	1 2
Clause 11	Act amended	3
	This part amends the <i>Corrective Services Act 2006</i> .	4
Clause 12	Amendment of s 12 (Prisoner security classification)	5
	Section 12(1B)—	6
	<i>omit.</i>	7
Clause 13	Amendment of s 13 (Reviewing prisoner's security classification)	8 9
	Section 13(1B)—	10
	<i>omit.</i>	11
Clause 14	Amendment of s 41 (Who may be required to give test sample)	12 13
	Section 41(1)(c)—	14
	<i>omit.</i>	15
Clause 15	Omission of ch 2, pt 2, div 6A (Criminal organisation segregation orders)	16 17
	Chapter 2, part 2, division 6A—	18
	<i>omit.</i>	19
Clause 16	Amendment of s 71 (Reconsidering decision)	20
	(1) Section 71(5)—	21
	<i>omit.</i>	22
	(2) Section 71(6)—	23

[s 17]

renumber as section 71(5). 1

Clause 17 Amendment of s 178 (Definition for sdiv 2) 2

(1) Section 178, heading, ‘Definition’— 3

omit, insert— 4

Definitions 5

(2) Section 178— 6

insert— 7

prescribed offence see the *Penalties and Sentences Act 1992*, section 161N. 8
9

relevant further period, in relation to a prisoner 10
serving a term of imprisonment imposed under 11
the *Penalties and Sentences Act 1992*, section 12
161R(2), means the period of the mandatory 13
component of the sentence imposed on the 14
prisoner under that section. 15

**Clause 18 Amendment of s 181 (Parole eligibility date for prisoner 16
serving term of imprisonment for life) 17**

(1) Section 181— 18

insert— 19

(2A) However, if the term of imprisonment for life was 20
imposed as the base component of a sentence 21
under the *Penalties and Sentences Act 1992*, 22
section 161R(2), the prisoner’s parole eligibility 23
date is the day that is worked out by adding 7 24
years to the parole eligibility date that would 25
otherwise apply to the prisoner under subsection 26
(2). 27

(2B) Also, if a prisoner who is serving a term of 28
imprisonment for life is sentenced under the 29
Penalties and Sentences Act 1992, section 30
161R(2) for a prescribed offence, the prisoner’s 31

[s 19]

	parole eligibility date is the day that is worked out	1
	by adding, to the parole eligibility date that would	2
	otherwise apply to the prisoner under subsection	3
	(2) or (2A), the lesser of the following periods—	4
	(a) 7 years;	5
	(b) the period of imprisonment provided for	6
	under the maximum penalty for the	7
	prescribed offence.	8
(2)	Section 181(3), ‘subsection (2)’—	9
	<i>omit, insert—</i>	10
	subsections (2), (2A) and (2B)	11
Clause 19	Amendment of s 181A (Parole eligibility date for prisoner	12
	serving term of imprisonment for life for a repeat serious	13
	child sex offence)	14
	Section 181A—	15
	<i>insert—</i>	16
	(3) However, if the term of imprisonment for life	17
	under the <i>Penalties and Sentences Act 1992</i> ,	18
	section 161E was imposed as the base component	19
	of a sentence under section 161R(2) of that Act,	20
	the prisoner’s parole eligibility date is the day that	21
	is worked out by adding 7 years to the parole	22
	eligibility date that would otherwise apply to the	23
	prisoner under subsection (2).	24
	(4) Also, if a prisoner who is serving a term of	25
	imprisonment for life under the <i>Penalties and</i>	26
	<i>Sentences Act 1992</i> , section 161E is sentenced	27
	under section 161R(2) of that Act for a prescribed	28
	offence, the prisoner’s parole eligibility date is the	29
	day that is worked out by adding, to the parole	30
	eligibility date that would otherwise apply to the	31
	prisoner under subsection (2) or (3), the lesser of	32
	the following periods—	33
	(a) 7 years;	34

[s 20]

	(b) the period of imprisonment provided for under the maximum penalty for the prescribed offence.	1 2 3
Clause 20	Amendment of s 182 (Parole eligibility date for serious violent offender)	4 5
	(1) Section 182—	6
	<i>insert—</i>	7
	(2A) However, if the term of imprisonment for the serious violent offence was imposed under the <i>Penalties and Sentences Act 1992</i> , section 161R(2), the prisoner’s parole eligibility date is the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (2B).	8 9 10 11 12 13 14
	(2B) The notional parole eligibility date is the day that would apply under subsection (2) if the term of imprisonment imposed on the prisoner under the <i>Penalties and Sentences Act 1992</i> , section 161R(2) consisted only of the base component of the sentence imposed under that section.	15 16 17 18 19 20
	(2) Section 182(3), ‘However’—	21
	<i>omit, insert—</i>	22
	Despite subsections (2) and (2A)	23
Clause 21	Amendment of s 182A (Parole eligibility date for prisoner serving term of imprisonment for other particular serious offences)	24 25 26
	(1) Section 182A(1)—	27
	<i>omit, insert—</i>	28
	(1) This section applies to a prisoner who—	29
	(a) is serving a term of imprisonment for a drug trafficking offence; and	30 31

	(b) was sentenced for the offence under the	1
	<i>Drugs Misuse Act 1986</i> , section 5(2) as in	2
	force before the commencement of the	3
	<i>Serious and Organised Crime Legislation</i>	4
	<i>Amendment Act 2016</i> , section 164.	5
(2)	Section 182A(3)(b), after ‘against’—	6
	<i>insert—</i>	7
	the Criminal Code,	8
(3)	Section 182A—	9
	<i>insert—</i>	10
(3A)	However, if the term of imprisonment for the	11
	offence against the Criminal Code, section 314A	12
	was imposed under the <i>Penalties and Sentences</i>	13
	<i>Act 1992</i> , section 161R(2), the prisoner’s parole	14
	eligibility date is the day that is worked out by	15
	adding the relevant further period to the notional	16
	parole eligibility date fixed for the prisoner under	17
	subsection (3B).	18
(3B)	The notional parole eligibility date is the day that	19
	would apply under subsection (3) if the term of	20
	imprisonment imposed on the prisoner under the	21
	<i>Penalties and Sentences Act 1992</i> , section	22
	161R(2) consisted only of the base component of	23
	the sentence imposed under that section.	24
(4)	Section 182A(4), ‘However’—	25
	<i>omit, insert—</i>	26
	Despite subsections (3) and (3A)	27
Clause 22	Amendment of s 183 (Parole eligibility date for prisoner	28
	detained for a period directed by a judge under Criminal	29
	Law Amendment Act 1945, pt 3)	30
(1)	Section 183—	31
	<i>insert—</i>	32

[s 23]

	(2A) However, subsection (2B) applies if—	1
	(a) the offence for which the prisoner is being detained is a prescribed offence committed with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q; and	2 3 4 5 6
	(b) the prisoner has been sentenced for the offence under section 161R(2) of that Act.	7 8
	(2B) The prisoner’s parole eligibility date is the day that is worked out by adding the relevant further period to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).	9 10 11 12 13
	(2) Section 183(3), ‘However’—	14
	<i>omit, insert—</i>	15
	Despite subsections (2) and (2B)	16
Clause 23	Amendment of s 184 (Parole eligibility date for other prisoners)	17 18
	(1) Section 184(1)(a)(ii), after ‘3 years’—	19
	<i>insert—</i>	20
	(excluding the mandatory component of any sentence of imprisonment imposed on the prisoner under the <i>Penalties and Sentences Act 1992</i> , section 161R(2))	21 22 23 24
	(2) Section 184(1)(b), after ‘for an offence’—	25
	<i>insert—</i>	26
	(excluding the mandatory component of any sentence of imprisonment imposed on the prisoner under the <i>Penalties and Sentences Act 1992</i> , section 161R(2))	27 28 29 30
	(3) Section 184—	31
	<i>insert—</i>	32

	(3A)	Despite subsections (2) and (3)(a), if the prisoner has been sentenced for the offence under the <i>Penalties and Sentences Act 1992</i> , section 161R(2), the prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the notional parole eligibility date fixed for the prisoner under subsection (3B).	1 2 3 4 5 6 7
	(3B)	The notional parole eligibility date is the day that would apply under subsection (2) or (3)(a) if the term of imprisonment imposed on the prisoner under the <i>Penalties and Sentences Act 1992</i> , section 161R(2) consisted only of the base component of the sentence imposed under that section.	8 9 10 11 12 13 14
Clause 24	Amendment of s 185B (Parole eligibility date for prisoner serving term of imprisonment for an offence against <i>Weapons Act 1990</i>, section 50, 50B or 65)		15 16 17
	(1)	Section 185B, heading, 'section 50'— <i>omit, insert—</i> s 50	18 19 20
	(2)	Section 185B— <i>insert—</i>	21 22
	(3)	However, if the term of imprisonment was imposed under the <i>Penalties and Sentences Act 1992</i> , section 161R(2) for an offence against the <i>Weapons Act 1990</i> , section 50B or 65, the prisoner's parole eligibility date is the day that is worked out by adding the relevant further period to the parole eligibility date that would otherwise apply to the prisoner under subsection (2).	23 24 25 26 27 28 29 30
Clause 25	Omission of s 267A (Directions to identified participant in criminal organisation)		31 32
		Section 267A—	33

[s 26]

omit. 1

Clause 26 Omission of s 344AA (Commissioner may provide information about particular offender’s participation in criminal organisation) 2
3
4
Section 344AA— 5
omit. 6

Clause 27 Omission of ss 350A and 350B 7
Sections 350A and 350B— 8
omit. 9

Clause 28 Insertion of new ch 7A, pt 9 10
Chapter 7A— 11
insert— 12

Part 9 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016 13
14
15
16
17

490E Definition for part 18
In this part— 19
pre-amended Act means this Act as in force 20
before the commencement. 21

490F Prisoner classifications 22
(1) This section applies in relation to a prisoner who, 23
immediately before the commencement, was 24
subject to a criminal organisation segregation 25

order under the pre-amended Act. 1

(2) On the commencement, the prisoner's security 2
classification under the pre-amended Act, section 3
12(1B), is the prisoner's security classification 4
under section 12(1). 5

(3) The chief executive must, as soon as practicable 6
after the commencement, review the prisoner's 7
security classification under section 13. 8

490G Keeping records 9

(1) The chief executive must continue to keep the 10
record of relevant information about a prisoner. 11

(2) In this section— 12

record of relevant information, about a prisoner, 13
means the record under the pre-amended Act, 14
section 65D, and copies of any advices mentioned 15
in the pre-amended Act, section 65D(3), kept in 16
relation to the prisoner immediately before the 17
commencement. 18

490H Criminal organisation segregation orders 19

(1) On the commencement, a criminal organisation 20
segregation order in effect under the pre-amended 21
Act immediately before the commencement is 22
cancelled. 23

(2) A doctor or nurse must, as soon as practicable 24
after the commencement, examine the prisoner 25
who was subject to the order. 26

(3) The chief executive must record, for each 27
corrective services facility, the following details 28
for each prisoner who was subject to an order 29
mentioned in subsection (1)— 30

(a) the date on which it was cancelled; 31

[s 28]

(b) the date on which the prisoner was examined under subsection (2).	1 2
(4) The chief executive must record the information mentioned in subsection (3) in the record kept under section 490G.	3 4 5
490I Requirement for test sample before commencement	6 7
On the commencement, any requirement made of a person under the pre-amended Act, section 41(1)(c), ends.	8 9 10
490J Directions to identified participant	11
(1) On the commencement, a direction given under the pre-amended Act, section 267A(3)(a) or (c), and in place immediately before the commencement ends.	12 13 14 15
(2) The chief executive must tell the offender subject to the direction that the direction is no longer in place.	16 17 18
490K Monitoring devices	19
(1) If immediately before the commencement an offender was subject to a direction under the pre-amended Act, section 267A(3)(b), the direction continues in force according to its terms.	20 21 22 23
(2) The chief executive must review the direction as soon as practicable after the commencement.	24 25
(3) If the chief executive does not consider it reasonably necessary for the offender to wear a device for monitoring the offender's location, the chief executive must—	26 27 28 29
(a) cancel the direction; and	30

	(b) tell the offender that the direction given to the offender is no longer in place.	1 2
Clause 29	Amendment of sch 1 (Sexual offences)	3
	Schedule 1, entry for the Criminal Code—	4
	<i>insert—</i>	5
	section 228DA (Administering child exploitation material website)	6 7
	section 228DB (Encouraging use of child exploitation material website)	8 9
	section 228DC (Distributing information about avoiding detection)	10 11
Clause 30	Amendment of sch 4 (Dictionary)	12
	Schedule 4, definitions <i>COSO</i> , <i>criminal organisation</i> , <i>criminal organisation segregation order</i> , <i>identified participant</i> and <i>participant—</i>	13 14 15
	<i>omit.</i>	16
Part 5	Amendment of Crime and Corruption Act 2001	17 18
Clause 31	Act amended	19
	This part amends the <i>Crime and Corruption Act 2001</i> .	20
Clause 32	Amendment of s 25 (Commission's crime function)	21
	Section 25(b)—	22
	<i>omit, insert—</i>	23
	(b) to investigate, under an authorisation under section 55D, incidents that threaten, have	24 25

[s 33]

	threatened or may threaten public safety that	1
	criminal organisations or participants in	2
	criminal organisations have engaged in, are	3
	engaging in, or are planning to engage in.	4
Clause 33	Amendment of s 53 (Intelligence functions)	5
	Section 53(b), ‘under an authorisation under section 55F’—	6
	<i>omit.</i>	7
Clause 34	Replacement of ch 2, pt 4, div 2A, hdg	8
	Chapter 2, part 4, division 2A, heading—	9
	<i>omit, insert—</i>	10
	Division 2A Specific intelligence	11
	operations	12
Clause 35	Amendment of s 55A (Authorising the commission)	13
	Section 55A, heading, ‘the commission’—	14
	<i>omit, insert—</i>	15
	specific intelligence operation	16
Clause 36	Amendment of s 55B (Matters to which the reference	17
	committee must consider before granting an	18
	authorisation)	19
	Section 55B, heading, from ‘to which’—	20
	<i>omit, insert—</i>	21
	reference committee must consider	22
Clause 37	Amendment of s 55C (Reference committee may give	23
	commission directions about intelligence operations)	24
	Section 55C, heading, from ‘about’—	25

omit.

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

Chapter 2, part 4, division 2B—

omit, insert—

Division 2B Immediate responses to threats to public safety

55D Authorising immediate response

- (1) This section applies if the reference committee is satisfied there are reasonable grounds to suspect that a criminal organisation or a participant in a criminal organisation has engaged in, is engaging in, or is planning to engage in, an incident that threatens, has threatened or may threaten public safety.
- (2) The reference committee may authorise the commission to do either or both of the following in response to, or to prevent, the threat to public safety—
 - (a) undertake an investigation into the incident;
 - (b) conduct a hearing in relation to the incident.
- (3) The authorisation must be in writing and identify—
 - (a) the criminal organisation or participant that has engaged in, is engaging in, or is planning to engage in, the incident; and
 - (b) the nature of the incident; and
 - (c) the purpose of the investigation or hearing.
- (4) The authorisation may be made by the reference committee—
 - (a) on its own initiative; or

[s 38]

- (b) if asked by the senior executive officer 1
(crime) or the senior executive officer 2
(corruption). 3

55E Matters reference committee must consider 4

- (1) The reference committee may authorise the 5
commission to undertake the investigation or 6
conduct the hearing only if the committee is 7
satisfied— 8

- (a) as required under section 55D(1); and 9

- (b) it is in the public interest to authorise the 10
commission to undertake the investigation 11
or conduct the hearing in response to, or to 12
prevent, the threat to public safety. 13

- (2) In considering the public interest, the reference 14
committee may also have regard to the likely 15
effectiveness of an investigation into criminal 16
activity or corruption without the use of powers 17
available to the commission under this division. 18

- (3) In this section— 19

criminal activity means any act or omission that 20
involves the commission of an offence. 21

**55F Reference committee may give commission 22
directions 23**

- (1) The reference committee may give the 24
commission directions imposing limitations on 25
the commission's investigation or hearing under 26
an authorisation under section 55D, including 27
limitations on the exercise of the commission's 28
powers for the investigation or hearing. 29

- (2) The reference committee may also direct the 30
commission to end an investigation or hearing 31
under an authorisation under section 55D if the 32
committee considers— 33

	(a) it may be more appropriate for another entity to undertake the investigation or conduct the hearing; or	1 2 3
	(b) it may be more effective for another entity to undertake the investigation or conduct the hearing; or	4 5 6
	(c) undertaking the investigation or conducting the hearing is not a justifiable use of the commission's resources; or	7 8 9
	(d) it is not in the public interest for the commission to undertake the investigation or conduct the hearing.	10 11 12
	(3) The commission must comply with a direction given under subsection (1) or (2).	13 14
	(4) The reference committee may amend the terms of an authorisation on its own initiative or if asked by the senior executive officer (crime) or the senior executive officer (corruption).	15 16 17 18
	(5) To remove any doubt, it is declared that subsection (2)(d) is not limited by section 55D(2).	19 20
Clause 39	Amendment of s 74 (Notice to produce for crime investigation, specific intelligence operation (crime) or witness protection function)	21 22 23
	Section 74(5A) and (9)—	24
	<i>omit.</i>	25
Clause 40	Amendment of s 82 (Notice to attend hearing—general)	26
	(1) Section 82(6) and (9)—	27
	<i>omit.</i>	28
	(2) Section 82(7), 'section 55F'—	29
	<i>omit, insert—</i>	30

[s 41]

	section 55D	1
(3)	Section 82(8), ‘subsection (7)’—	2
	<i>omit, insert—</i>	3
	subsection (6)	4
(4)	Section 82(7) and (8)—	5
	<i>renumber</i> as section 82(6) and (7).	6
Clause 41	Amendment of s 85 (Notices requiring immediate attendance may be issued only by or with the approval of a Supreme Court judge)	7
	Section 85(2)(c), note, ‘section 82(7)’—	8
	<i>omit, insert—</i>	9
	section 82(6)	10
Clause 42	Insertion of new s 85A	11
	Chapter 3, part 2—	12
	<i>insert—</i>	13
	85A Definitions for part	14
	In this part—	15
	<i>access information</i> means information that is necessary for a person to access and read information stored electronically on a storage device.	16
	<i>employee</i> includes a person who works under a contract for services.	17
	<i>issuer</i> see section 86(6).	18
	<i>relevant evidence</i> means—	19
	(a) evidence of the commission of major crime or corruption; or	20
		21
		22
		23
		24
		25
		26
		27

- (b) evidence that may be confiscation related 1
evidence. 2
- specified person*** means a person who— 3
- (a) is— 4
- (i) reasonably suspected of having 5
committed an offence for which a 6
search warrant was issued; or 7
- (ii) the owner of a storage device; or 8
- (iii) in possession of a storage device; or 9
- (iv) an employee of the owner or person in 10
possession of a storage device; or 11
- (v) a person who uses or has used a storage 12
device; or 13
- (vi) a person who is or was a system 14
administrator for the computer network 15
of which a storage device forms or 16
formed a part; and 17
- (b) has a working knowledge of— 18
- (i) how to access and operate a storage 19
device or a computer network of which 20
the storage device forms or formed a 21
part; or 22
- (ii) measures applied to protect 23
information stored on a storage device. 24
- storage device*** means a device on which 25
information may be stored electronically, 26
including a computer. 27
- stored***, on a storage device, includes accessible 28
through the device. 29

Clause 43 Insertion of new ss 88A–88C 30
After section 88— 31

[s 43]

insert—

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

- (1) The issuer may, in the search warrant, order a specified person to do any of the following in relation to a storage device in the person's possession, or to which the person has access, at the place—
- (a) give a commission officer access to the device;
 - (b) give a commission officer access information and any other information or assistance necessary for the officer to gain access to information stored on the device;
 - (c) allow a commission officer to—
 - (i) use access information to gain access to information stored on the device; and
 - (ii) examine information stored on the device to find out whether it may be relevant evidence; and
 - (iii) make a copy of information stored on the device that may be relevant evidence, including by using another storage device; and
 - (iv) convert information stored on the device that may be relevant evidence into documentary form or another form that enables it to be understood by a commission officer.
- (2) The issuer may also, in the search warrant, order that, if the storage device is seized and removed from the place, a specified person is required to do a thing mentioned in subsection (1)(b) or (c) after

the device has been removed. 1

(3) An order made under subsection (2) must state— 2

(a) the time at or by which the specified person 3
must give a commission officer the 4
information or assistance; and 5

(b) the place where the specified person must 6
provide the information or assistance; and 7

(c) any conditions to which the provision of the 8
information or assistance is subject. 9

88B Order for access information after storage 10
device has been seized 11

(1) This section applies if— 12

(a) a storage device is seized under the search 13
warrant and removed from the place; and 14

(b) either— 15

(i) the search warrant did not contain an 16
order made under section 88A(1) or 17
(2); or 18

(ii) the search warrant contained an order 19
made under section 88A(1) or (2) but 20
further access information is required 21
for a commission officer to gain access 22
to information stored on the device that 23
may be relevant evidence. 24

(2) On the application of an authorised commission 25
officer, a magistrate or a judge may make an order 26
requiring a specified person to do a thing 27
mentioned in section 88A(1)(b) or (c). 28

(3) An application made under subsection (2)— 29

(a) may be made at any time after the warrant 30
has been issued; and 31

(b) must be made— 32

[s 44]

	(i) if the search warrant was issued by a judge—to a Supreme Court judge; or	1 2
	(ii) if the search warrant was issued by a magistrate—to a magistrate.	3 4
(4)	An order made under subsection (2) must state—	5
(a)	the time at or by which the specified person must give a commission officer the information or assistance; and	6 7 8
(b)	the place where the specified person must provide the information or assistance; and	9 10
(c)	any conditions to which the provision of the information or assistance is subject; and	11 12
(d)	that failure, without reasonable excuse, to comply with the order may be dealt with under the Criminal Code, section 205A.	13 14 15
(5)	A magistrate or a judge may make an order under subsection (2) only if satisfied there are reasonable grounds for suspecting that information stored on the storage device may be relevant evidence.	16 17 18 19 20
	88C Compliance with order about information necessary to access information stored electronically	21 22 23
	A person is not excused from complying with an order made under section 88A(1) or (2) or 88B(2) on the ground that complying with it may tend to incriminate the person or make the person liable to a penalty.	24 25 26 27 28
Clause 44	Amendment of s 91 (What search warrant must state)	29
	Section 91(2)—	30
	<i>omit, insert—</i>	31

	(2) If a magistrate or a judge makes an order under section 88 or 88A(1) or (2), the warrant must also state that failure, without reasonable excuse, to comply with the order may be dealt with under—	1 2 3 4
	(a) for section 88—the Criminal Code, section 205; or	5 6
	(b) for section 88A(1) or (2)—the Criminal Code, section 205A.	7 8
Clause 45	Amendment of s 176 (Commission may hold hearings)	9
	Section 176(3), ‘or 55F’—	10
	<i>omit, insert—</i>	11
	or 55D	12
Clause 46	Amendment of s 185 (Refusal to produce—claim of reasonable excuse)	13 14
	Section 185(3A) and (10)—	15
	<i>omit.</i>	16
Clause 47	Amendment of s 190 (Refusal to answer question)	17
	Section 190(4) and (5)—	18
	<i>omit.</i>	19
Clause 48	Amendment of s 199 (Punishment of contempt)	20
	(1) Section 199(8A), ‘However, if’—	21
	<i>omit, insert—</i>	22
	However, the court must punish the person in contempt by imprisonment if	23 24
	(2) Section 199(8A), from ‘contempt;’—	25
	<i>omit, insert—</i>	26

[s 48]

contempt.	1
(3) Section 199(8B) and (8C)—	2
<i>omit, insert—</i>	3
(8B) The maximum punishment the court may impose	4
for a contempt mentioned in subsection (8A) is—	5
(a) for the person's first contempt—10 years	6
imprisonment; or	7
(b) for the person's second contempt—14 years	8
imprisonment; or	9
(c) for the person's third or subsequent	10
contempt—life imprisonment.	11
(8C) For subsection (8B)—	12
(a) despite any other law, a term of	13
imprisonment imposed under subsection	14
(8B) must be ordered to be served wholly in	15
a corrective services facility; and	16
(b) if a person is punished for more than 1	17
contempt, unless there are exceptional	18
circumstances, the punishment for the	19
second contempt or third or subsequent	20
contempt must be for a term of	21
imprisonment that is longer than the term of	22
imprisonment imposed on the person for the	23
immediately preceding contempt; and	24
(c) the hearings mentioned in subsection (12),	25
definition <i>second contempt</i> , may be the	26
same hearing; and	27
(d) the hearings mentioned in subsection (12),	28
definition <i>third or subsequent contempt</i> ,	29
may be the same hearing; and	30
(e) the failure by a person of a type mentioned	31
in subsection (8A) that constitutes the	32
person's second contempt, or third or	33
subsequent contempt, may be the same	34

	failure by the person of a type mentioned in subsection (8A) that constituted the person's first contempt or other preceding contempt.	1 2 3
(4)	Section 199(8D) and (8E), 'under subsection (8A)'— <i>omit, insert—</i>	4 5
	under this section	6
(5)	Section 199— <i>insert—</i>	7 8
(12)	In this section—	9
	<i>first contempt</i> , of a person, means a failure by the person of a type mentioned in subsection (8A).	10 11
	<i>second contempt</i> , of a person, means a failure by the person of a type mentioned in subsection (8A) that takes place in relation to a hearing dealing with the same subject matter as that dealt with in the hearing in which the person's first contempt was certified and for which the person has served a term of imprisonment imposed under subsection (8B).	12 13 14 15 16 17 18 19
	<i>third or subsequent contempt</i> , of a person, means a failure by the person of a type mentioned in subsection (8A) that takes place in relation to a hearing dealing with the same subject matter as that dealt with in the hearing in which the person's first contempt or other preceding contempt was certified and for which the person has served a term of imprisonment imposed under subsection (8B).	20 21 22 23 24 25 26 27 28
Clause 49	Amendment of s 201 (Commission must give evidence to defence unless court certifies otherwise)	29 30
	Section 201(1A)— <i>omit.</i>	31 32

[s 50]

Clause 50	Amendment of s 205 (Legal assistance for crime investigations)	1
		2
	(1) Section 205(1)(a), ‘for a crime investigation’—	3
	<i>omit.</i>	4
	(2) Section 205(1)(b), from ‘hearing’—	5
	<i>omit, insert—</i>	6
	commission hearing.	7
	(3) Section 205(1A)—	8
	<i>omit.</i>	9
	(4) Section 205—	10
	<i>insert—</i>	11
	(6) The Attorney-General may delegate a function under subsection (3) or (4) to the chief executive (justice).	12
		13
		14
	(7) The chief executive (justice) may subdelegate the delegated function to an appropriately qualified employee of the department administered by the chief executive (justice).	15
		16
		17
		18
	(8) In this section—	19
	<i>chief executive (justice)</i> means the chief executive of the department in which the Criminal Code is administered.	20
		21
		22
	<i>function</i> includes power.	23
Clause 51	Amendment of s 213 (Secrecy)	24
	(1) Section 213(3)(a)(i) and (b)(i)(A) ‘, an application or proceeding under the <i>Criminal Organisation Act 2009</i> ’—	25
	<i>omit.</i>	26
		27
	(2) Section 213(4)(b)(iii)—	28
	<i>omit.</i>	29

Clause 52	Amendment of s 270 (Delegation—chairperson)	1
	Section 270(2)(a), ‘section 55F or 82(7)’—	2
	<i>omit, insert—</i>	3
	section 82(6)	4
Clause 53	Amendment of s 348 (Regulation-making power)	5
	Section 348(2)—	6
	<i>omit, insert—</i>	7
	(2) A regulation may provide for—	8
	(a) procedures to be followed in proceedings before the commission; or	9 10
	(b) procedures to be observed by commission officers and other persons in performing the commission’s functions or exercising the commission’s powers.	11 12 13 14
Clause 54	Omission of s 348A (Criteria for recommending an entity be declared a criminal organisation)	15 16
	Section 348A—	17
	<i>omit.</i>	18
Clause 55	Insertion of new ch 8, pt 14	19
	Chapter 8—	20
	<i>insert—</i>	21
	Part 14	Serious and Organised
		Crime Legislation
		Amendment Act 2016
		22 23 24
	Division 1	General
		25

[s 55]

427 Authorisation by chairperson of immediate response function	1 2
(1) This section applies if—	3
(a) before the commencement, the chairperson authorised, under section 55F, a crime investigation or the holding of an intelligence hearing (or both) in response to, or to prevent, a threat to public safety; and	4 5 6 7 8
(b) on the commencement, the investigation or hearing was not finalised.	9 10
(2) The investigation or hearing is taken to have been authorised by the reference committee under section 55D.	11 12 13
428 Refusal to comply with notice to produce for fear of reprisal	14 15
(1) This section applies if—	16
(a) before the commencement, a person was given a notice to produce under section 74; and	17 18 19
(b) immediately before the commencement, the person had not complied with the notice to produce and had not been convicted of an offence against section 74(5).	20 21 22 23
(2) Section 74, as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , applies in relation to the notice to produce.	24 25 26
429 Refusal to comply with attendance notice for fear of reprisal	27 28
(1) This section applies if—	29
(a) before the commencement, a person was given an attendance notice under section 82; and	30 31 32

(b)	immediately before the commencement, the person had not complied with the attendance notice and had not been convicted of an offence against section 82(5).	1 2 3 4
(2)	Section 82, as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , applies in relation to the attendance notice.	5 6 7
430	Refusal to comply with requirement to produce stated document or thing for fear of reprisal	8 9 10
(1)	This section applies if—	11
(a)	before the commencement, a person was required to produce a stated document or thing at a commission hearing under an attendance notice or a section 75B requirement; and	12 13 14 15 16
(b)	immediately before the commencement, the person had not complied with the requirement and had not been convicted of an offence against section 185(1).	17 18 19 20
(2)	Section 185, as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , applies in relation to the requirement.	21 22 23
431	Refusal to answer question for fear of reprisal	24
(1)	This section applies if—	25
(a)	before the commencement, a witness at a commission hearing was required to answer a question put to the person at the hearing by the presiding officer; and	26 27 28 29
(b)	immediately before the commencement, the person had not answered the question and had not been convicted of an offence against section 190(1).	30 31 32 33

[s 55]

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|-----|--------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| (2) | Section 190, as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , applies in relation to the requirement. | 1
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432 Punishment for contempt	4
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|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| (1) | To remove any doubt, it is declared that for section 199(8B), as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> — | 5
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8 |
| (a) | a first contempt means a first contempt committed after the commencement of the <i>Criminal Law (Criminal Organisations Disruption) Amendment Act 2013</i> ; and | 9
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12 |
| (b) | a second contempt means a second contempt committed after the commencement of the <i>Criminal Law (Criminal Organisations Disruption) Amendment Act 2013</i> ; and | 13
14
15
16
17 |
| (c) | a third or subsequent contempt means a third or subsequent contempt committed after the commencement of the <i>Criminal Law (Criminal Organisations Disruption) Amendment Act 2013</i> . | 18
19
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22 |
| (2) | Also, section 199, as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , applies to a proceeding for a contempt that has not been finalised before the commencement, whether the contempt was committed before or after the commencement. | 23
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433 Commission must give evidence to defence	29
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Section 201, as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , applies to anything stated at, or a document or thing produced at, a commission hearing, whether the commission hearing started before or	30 31 32 33 34
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after the commencement.

1

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

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434 Definitions for division

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In this division—

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

7

8

(a) personal physical harm or damage to the
person's property; or

9

10

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

11

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

14

15

requirement the subject of the contempt
means—

16

17

(a) for a contempt constituted by a failure by a
person, under section 183, to take an oath
when required by the presiding officer—the
requirement to take the oath; or

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19

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21

(b) for a contempt constituted by a failure by a
person, under section 185 or 188, to produce
a stated document or thing at a commission
hearing under an attendance notice or a
section 75B requirement without reasonable
excuse—the requirement to produce the
stated document or thing; or

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(c) for a contempt constituted by a failure by a
person, under section 190 or 192, to answer
a question put to the person at the hearing by

29

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31

[s 55]

the presiding officer without reasonable 1
excuse or lawful excuse—the requirement to 2
answer the question. 3

requirement the subject of the offence means— 4

- (a) for an offence against section 74(5) of the 5
pre-amended Act—the requirement to 6
comply with the notice to produce under 7
section 74(2) of the pre-amended Act; or 8
- (b) for an offence against section 82(5) of the 9
pre-amended Act—the requirement to 10
comply with the attendance notice under 11
section 82(1) of the pre-amended Act; or 12
- (c) for an offence against section 185(1) of the 13
pre-amended Act—the requirement to 14
produce a stated document or thing at the 15
commission hearing under the attendance 16
notice or section 75B requirement given 17
under the pre-amended Act; or 18
- (d) for an offence against section 190(1) of the 19
pre-amended Act—the requirement to 20
answer a question put to the person at the 21
commission hearing under the pre-amended 22
Act by the presiding officer. 23

435 Application of division 24

- (1) This division applies if— 25
 - (a) a person has been convicted of an offence 26
against the pre-amended Act, section 74(5), 27
82(5), 185(1) or 190(1); and 28
 - (b) at the time of failing to comply with the 29
requirement the subject of the offence, the 30
person may have had a reasonable excuse 31
for failing to comply with the requirement 32
based on the person’s fear of reprisal. 33
- (2) This division also applies if— 34

-
- (a) a person has been found guilty under section 1
199(8) by the Supreme Court of a contempt 2
of the presiding officer constituted by— 3
- (i) a failure by the person, under section 4
183, to take an oath when required by 5
the presiding officer; or 6
- (ii) a failure by the person, under section 7
185 or 188, to produce a stated 8
document or thing at a commission 9
hearing under an attendance notice or a 10
section 75B requirement without 11
reasonable excuse; or 12
- (iii) a failure by the person, under section 13
190 or 192, to answer a question put to 14
the person at the hearing by the 15
presiding officer without reasonable 16
excuse or lawful excuse; and 17
- (b) at the time of failing to comply with the 18
requirement the subject of the contempt, the 19
person may have had a reasonable excuse 20
for failing to comply with the requirement 21
based on the person's fear of reprisal. 22
- (3) For subsection (1)(b) and (2)(b), it does not matter 23
if the reasonable excuse based on the fear of 24
reprisal is raised by the person for the first time in 25
an application under this division. 26

436 Application to Supreme Court 27

- (1) The person may apply to the Supreme Court— 28
- (a) for an offence mentioned in section 29
435(1)(a)—to set aside the conviction for 30
the offence on the grounds the person, at the 31
time of failing to comply with the 32
requirement the subject of the offence, had a 33
reasonable excuse, based on the person's 34

[s 55]

- | | | |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| | fear of reprisal, for failing to comply with the requirement; or | 1
2 |
| (b) | for a contempt mentioned in section 435(2)(a)—to set aside the finding of guilt and any punishment for the contempt imposed by the court under section 199(8) on the grounds the person, at the time of failing to comply with the requirement the subject of the contempt, had a reasonable excuse, based on the person’s fear of reprisal, for failing to comply with the requirement. | 3
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| (2) | The application must be made within 3 months after the commencement. | 13
14 |
| (3) | The court may, at any time, extend the period mentioned in subsection (2). | 15
16 |
| (4) | The court must give a copy of the application to the commission. | 17
18 |
| (5) | Within 10 business days after the making of the application, the court must give directions to enable the application to be heard. | 19
20
21 |
| (6) | Subject to any directions given by the court, the application must be heard within 20 business days after the day on which the application is made. | 22
23
24 |
| 437 | Hearing—offence | 25 |
| (1) | On the hearing of an application under section 436(1)(a) to set aside a conviction for the offence, the Supreme Court may— | 26
27
28 |
| | (a) set aside the conviction; or | 29 |
| | (b) confirm the conviction. | 30 |
| (2) | The court may have regard to any material relevant to the application. | 31
32 |

438 Hearing—contempt

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

439 Appeals

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

440 No cause of action

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

Clause 56 Amendment of sch 2 (Dictionary)

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

[s 57]

<i>access information</i> , for chapter 3, part 2, see section 85A.	1 2
<i>criminal organisation</i> see the <i>Penalties and Sentences Act 1992</i> , section 161O.	3 4
<i>employee</i> , for chapter 3, part 2, see section 85A.	5
<i>issuer</i> , for chapter 3, part 2, see section 86(6).	6
<i>participant</i> , in a criminal organisation, see the <i>Penalties and Sentences Act 1992</i> , section 161P.	7 8
<i>relevant evidence</i> , for chapter 3, part 2, see section 85A.	9 10
<i>specified person</i> , for chapter 3, part 2, see section 85A.	11 12
<i>storage device</i> , for chapter 3, part 2, see section 85A.	13 14
<i>stored</i> , for chapter 3, part 2, see section 85A.	15
(3) Schedule 2, definition <i>intelligence function hearing</i> , ‘section 55A or 55F(2)’—	16 17
<i>omit, insert</i> —	18
section 55A or 55D(2)	19

Part 6	Amendment of Crime and Corruption Regulation 2015	20 21
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Clause 57	Regulation amended	22
	This part amends the <i>Crime and Corruption Regulation 2015</i> .	23
Clause 58	Omission of s 20 (Entities declared to be criminal organisations)	24 25
	Section 20—	26
	<i>omit</i> .	27

Clause 59	Omission of sch 2 (Entities declared to be criminal organisations)	1
		2
	Schedule 2—	3
	<i>omit.</i>	4
Part 7	Amendment of Criminal Code	5
Division 1	Preliminary	6
Clause 60	Code amended	7
	This part amends the Criminal Code.	8
Division 2	Amendments commencing on assent	9
		10
Clause 61	Amendment of s 1 (Definitions)	11
	(1) Section 1, definitions <i>criminal organisation</i> and <i>spent conviction</i> —	12
		13
	<i>omit.</i>	14
	(2) Section 1—	15
	<i>insert</i> —	16
	<i>anonymising service</i> , for part 4, chapter 22, see	17
	section 207A.	18
	<i>criminal organisation</i> —	19
	(a) generally—has the meaning given by the	20
	<i>Penalties and Sentences Act 1992</i> , section	21
	161O; and	22
	(b) for sections 60A and 60B—includes an	23
	entity declared by regulation to be a	24
	criminal organisation.	25

[s 62]

	<i>distribute</i> , for part 4, chapter 22, see section 207A.	1 2
	<i>hidden network</i> , for part 4, chapter 22, see section 207A.	3 4
	<i>information</i> , for part 4, chapter 22, see section 207A.	5 6
	<i>participant</i> , in a criminal organisation, see the <i>Penalties and Sentences Act 1992</i> , section 161P.	7 8
	<i>network</i> , for part 4, chapter 22, see section 207A.	9
	<i>spent conviction</i> means a conviction—	10
	(a) for which the rehabilitation period under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> has expired under that Act; and	11 12 13
	(b) that is not revived as prescribed by section 11 of that Act.	14 15
Clause 62	Amendment of s 60A (Participants in criminal organisation being knowingly present in public places)	16 17
	(1) Section 60A(1), ‘an offence’—	18
	<i>omit, insert—</i>	19
	a misdemeanour	20
	(2) Section 60A(1), minimum penalty—	21
	<i>omit.</i>	22
	(3) Section 60A(3), definitions <i>member</i> and <i>participant</i> —	23
	<i>omit.</i>	24
	(4) Section 60A(3)—	25
	<i>insert—</i>	26
	<i>criminal activity</i> does not include conduct constituting a simple offence or a regulatory offence.	27 28 29

Clause 63	Amendment of s 60B (Participants in criminal organisation entering prescribed places and attending prescribed events)	1
		2
		3
	(1) Section 60B(1) and (2), ‘an offence’—	4
	<i>omit, insert—</i>	5
	a misdemeanour	6
	(2) Section 60B(1) and (2), minimum penalty—	7
	<i>omit.</i>	8
	(3) Section 60B(4), definition <i>participant</i> —	9
	<i>omit.</i>	10
	(4) Section 60B(4)—	11
	<i>insert—</i>	12
	<i>criminal activity</i> does not include conduct	13
	constituting a simple offence or a regulatory	14
	offence.	15
Clause 64	Omission of s 60C (Participants in criminal organisation recruiting persons to become participants in the organisation)	16
		17
		18
	Section 60C—	19
	<i>omit.</i>	20
Clause 65	Amendment of s 61 (Riot)	21
	Section 61—	22
	<i>insert—</i>	23
	(2A) The <i>Penalties and Sentences Act 1992</i> , section	24
	161Q also states a circumstance of aggravation	25
	for an offence against this section.	26
	(2B) An indictment charging an offence against this	27
	section with the circumstance of aggravation	28
	stated in the <i>Penalties and Sentences Act 1992</i> ,	29

[s 66]

	section 161Q may not be presented without the consent of a Crown Law Officer.	1 2
Clause 66	Amendment of s 72 (Affray)	3
	(1) Section 72(2), (3) and (4)—	4
	<i>omit.</i>	5
	(2) Section 72(3A), ‘also’—	6
	<i>omit.</i>	7
	(3) Section 72(3A)—	8
	<i>renumber</i> as section 72(2).	9
Clause 67	Insertion of new s 76	10
	Part 2, chapter 9—	11
	<i>insert</i> —	12
	76 Recruiting person to become participant in criminal organisation	13 14
	(1) A person who—	15
	(a) is a participant in a criminal organisation or is subject to a control order or a registered corresponding control order; and	16 17 18
	(b) recruits, or attempts to recruit, another person to become, or associate with, a participant in a criminal organisation;	19 20 21
	commits a misdemeanour.	22
	Maximum penalty—500 penalty units or 5 years imprisonment.	23 24
	(2) In this section—	25
	<i>control order</i> see the <i>Penalties and Sentences Act</i> <i>1992</i> , section 161N.	26 27
	<i>recruit</i> , a person to become, or associate with, a participant in a criminal organisation, includes	28 29

	counsel, procure, solicit, incite and induce the	1
	person, including by promoting the organisation,	2
	to become, or associate with, a participant in the	3
	organisation.	4
	registered corresponding control order see the	5
	<i>Penalties and Sentences Act 1992</i> , section 161N.	6
Clause 68	Amendment of s 86 (Obtaining of or disclosure of secret	7
	information about the identity of informant)	8
(1)	Section 86(3), definition <i>external agency</i> —	9
	<i>omit.</i>	10
(2)	Section 86(3)—	11
	<i>insert—</i>	12
	criminal intelligence means information relating	13
	to actual or suspected criminal activity (including	14
	information the commissioner has obtained	15
	through the police service or from an external	16
	agency), whether in the State or elsewhere, the	17
	disclosure of which could reasonably be expected	18
	to—	19
	(a) prejudice a criminal investigation; or	20
	(b) enable the discovery of the existence or	21
	identity of a confidential source of	22
	information relevant to law enforcement; or	23
	(c) endanger a person's life or physical safety.	24
	external agency means any of the following—	25
	(a) the Crime and Corruption Commission;	26
	(b) the Australian Federal Police;	27
	(c) a police force or service of another State;	28
	(d) the chief executive (corrective services);	29
	(e) an officer of another State with powers and	30
	functions substantially corresponding to the	31

[s 69]

	powers and functions of the chief executive (corrective services) under the <i>Corrective Services Act 2006</i> ;	1 2 3
(f)	another entity—	4
(i)	established under a law of another jurisdiction, including a jurisdiction outside Australia; and	5 6 7
(ii)	with functions that include investigating or inquiring into criminal conduct, misconduct or corruption (whether or not the functions are stated in the law mentioned in subparagraph (i)); and	8 9 10 11 12 13
(iii)	declared by regulation to be an external agency.	14 15
	officer , of an external agency, includes a person employed by the agency, seconded to the agency or engaged by the agency under a contract for services.	16 17 18 19
(3)	Section 86(3), definition <i>criminal organisation informant</i> , paragraph (a), ‘for the purposes of the <i>Criminal Organisation Act 2009</i> ’—	20 21 22
	<i>omit, insert—</i>	23
	about a criminal organisation or a participant in a criminal organisation	24 25
(4)	Section 86(3), definition <i>criminal organisation informant</i> , paragraph (d)—	26 27
	<i>omit.</i>	28
Clause 69	Amendment of s 87 (Official corruption)	29
	Section 87—	30
	<i>insert—</i>	31
	(1B) The <i>Penalties and Sentences Act 1992</i> , section	32

	161Q also states a circumstance of aggravation for an offence against this section.	1 2
	(1C) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	3 4 5 6 7
Clause 70	Amendment of s 92A (Misconduct in relation to public office)	8 9
	(1) Section 92A(4A) and (4B)— <i>omit, insert—</i>	10 11
	(4A) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	12 13 14
	(4B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	15 16 17 18 19
	(2) Section 92A(5), definition <i>participant—</i> <i>omit.</i>	20 21
Clause 71	Amendment of s 119B (Retaliation against or intimidation of judicial officer, juror, witness etc.)	22 23
	(1) Section 119B(1A), from ‘under’— <i>omit, insert—</i>	24 25
	for a prescribed offence charged with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q.	26 27 28
	(2) Section 119B— <i>insert—</i>	29 30

[s 72]

- (1B) The *Penalties and Sentences Act 1992*, section 161Q also states a circumstance of aggravation for an offence against this section. 1
2
3
- (1C) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer. 4
5
6
7
8
- (3) Section 119B(2)— 9
 - insert—* 10
 - prescribed offence* see the *Penalties and Sentences Act 1992*, section 161N. 11
12

Clause 72 Amendment of s 122 (Corruption of jurors) 13

- Section 122— 14
- insert—* 15
- (2) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section. 16
17
18
- (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer. 19
20
21
22
23

Clause 73 Amendment of s 127 (Corruption of witnesses) 24

- Section 127— 25
- insert—* 26
- (3) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section. 27
28
29
- (4) An indictment charging an offence against this section with the circumstance of aggravation 30
31

[s 74]

	stated in the <i>Penalties and Sentences Act 1992</i> ,	1
	section 161Q may not be presented without the	2
	consent of a Crown Law Officer.	3
Clause 74	Amendment of s 140 (Attempting to pervert justice)	4
	Section 140—	5
	<i>insert—</i>	6
	(2) The <i>Penalties and Sentences Act 1992</i> , section	7
	161Q states a circumstance of aggravation for an	8
	offence against this section.	9
	(3) An indictment charging an offence against this	10
	section with the circumstance of aggravation	11
	stated in the <i>Penalties and Sentences Act 1992</i> ,	12
	section 161Q may not be presented without the	13
	consent of a Crown Law Officer.	14
Clause 75	Insertion of new s 205A	15
	Part 3, chapter 20—	16
	<i>insert—</i>	17
	205A Contravening order about information	18
	necessary to access information stored	19
	electronically	20
	A person who contravenes—	21
	(a) an order made under the <i>Police Powers and</i>	22
	<i>Responsibilities Act 2000</i> , section 154(1) or	23
	(2) or 154A(2); or	24
	(b) an order made under the <i>Crime and</i>	25
	<i>Corruption Act 2001</i> , section 88A(1) or (2)	26
	or 88B(2);	27
	commits a crime.	28
	Maximum penalty—5 years imprisonment.	29

[s 76]

Clause 76	Amendment of s 207A (Definitions for this chapter)	1
	Section 207A—	2
	<i>insert—</i>	3
	<i>anonymising service</i> means a device or other	4
	thing, or a physical, digital or other measure, used	5
	to hide—	6
	(a) the identity or location of a person who	7
	administers, accesses or uses a network,	8
	computer or other device; or	9
	(b) information stored on a network, computer	10
	or other device; or	11
	(c) communication, including the exchange of	12
	information, between 2 or more persons	13
	using a network, computer or other device;	14
	or	15
	(d) the location of a network, computer or other	16
	device.	17
	<i>Examples of physical, digital or other measures—</i>	18
	software, password or other authorisation, encryption,	19
	routing systems, communications ports	20
	<i>distribute</i> includes—	21
	(a) communicate, exhibit, send, supply or	22
	transmit to someone, whether to a particular	23
	person or not; and	24
	(b) make available for access by someone,	25
	whether by a particular person or not; and	26
	(c) enter into an agreement or arrangement to	27
	do something in paragraph (a) or (b); and	28
	(d) attempt to distribute.	29
	<i>hidden network</i> means a network of computers or	30
	other devices (whether or not part of the internet)	31
	that has, or uses, digital, physical or other	32
	measures to do, or that are designed to do, any of	33
	the following—	34

[s 77]

- (a) restrict access to the network; 1
 - (b) make the network undiscoverable when 2
searched for in a way that is generally used 3
to search for networks, including, for 4
example, by using an internet search engine; 5
 - (c) hide the identity or location of persons who 6
administer, access or use the network; 7
 - (d) hide information stored on the network; 8
 - (e) hide communication, including the 9
exchange of information, between— 10
 - (i) the network and a person who 11
administers, accesses or uses the 12
network; or 13
 - (ii) 2 or more persons who administer, 14
access or use the network; 15
 - (f) hide the location of the network. 16
- Examples of physical, digital or other measures—* 17
- software, password or other authorisation, encryption, 18
routing systems, communications ports 19
- information** includes a photograph, picture, 20
videotape, digital image and any other visual 21
representation. 22
- network**, of computers or other devices, includes 23
part of a network of computers or other devices. 24

- Clause 77 Amendment of s 210 (Indecent treatment of children 25
under 16) 26**
- Section 210— 27
- insert—* 28
- (4B) The *Penalties and Sentences Act 1992*, section 29
161Q also states a circumstance of aggravation 30
for an offence against this section. 31
 - (4C) An indictment charging an offence against this 32

[s 78]

	section with the circumstance of aggravation	1
	stated in the <i>Penalties and Sentences Act 1992</i> ,	2
	section 161Q may not be presented without the	3
	consent of a Crown Law Officer.	4
Clause 78	Amendment of s 213 (Owner etc. permitting abuse of children on premises)	5
		6
	Section 213—	7
	<i>insert—</i>	8
	(3A) The <i>Penalties and Sentences Act 1992</i> , section	9
	161Q also states a circumstance of aggravation	10
	for an offence against this section.	11
	(3B) An indictment charging an offence against this	12
	section with the circumstance of aggravation	13
	stated in the <i>Penalties and Sentences Act 1992</i> ,	14
	section 161Q may not be presented without the	15
	consent of a Crown Law Officer.	16
Clause 79	Amendment of s 215 (Carnal knowledge with or of children under 16)	17
		18
	Section 215—	19
	<i>insert—</i>	20
	(4B) The <i>Penalties and Sentences Act 1992</i> , section	21
	161Q also states a circumstance of aggravation	22
	for an offence against this section.	23
	(4C) An indictment charging an offence against this	24
	section with the circumstance of aggravation	25
	stated in the <i>Penalties and Sentences Act 1992</i> ,	26
	section 161Q may not be presented without the	27
	consent of a Crown Law Officer.	28
Clause 80	Amendment of s 217 (Procuring young person etc. for carnal knowledge)	29
		30
	Section 217—	31

insert—

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

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

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

Section 218—

insert—

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

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

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

Section 218A—

insert—

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

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

[s 83]

	consent of a Crown Law Officer.	1
Clause 83	Amendment of s 218B (Grooming children under 16)	2
	Section 218B—	3
	<i>insert—</i>	4
	(2A) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	5 6 7
	(2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	8 9 10 11 12
Clause 84	Amendment of s 219 (Taking child for immoral purposes)	13
	Section 219—	14
	<i>insert—</i>	15
	(3A) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	16 17 18
	(3B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	19 20 21 22 23
Clause 85	Amendment of s 227B (Distributing prohibited visual recordings)	24 25
	Section 227B(2), definition <i>distribute—</i>	26
	<i>omit.</i>	27

Clause 86	Amendment of s 228 (Obscene publications and exhibitions)	1
		2
	Section 228—	3
	<i>insert—</i>	4
	(5A) Section 207A, definition <i>distribute</i> , does not apply to this section.	5
		6
Clause 87	Amendment of s 228A (Involving child in making child exploitation material)	7
		8
	(1) Section 228A(1), penalty—	9
	<i>omit, insert—</i>	10
	Maximum penalty—	11
	(a) if the offender uses a hidden network or an anonymising service in committing the offence—25 years imprisonment; or	12
		13
		14
	(b) otherwise—20 years imprisonment.	15
	(2) Section 228A(2)—	16
	<i>renumber</i> as section 228A(4).	17
	(3) Section 228A—	18
	<i>insert—</i>	19
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	20
		21
		22
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	23
		24
		25
		26
		27
Clause 88	Amendment of s 228B (Making child exploitation material)	28
		29
	(1) Section 228B(1), penalty—	30

[s 89]

<i>omit, insert—</i>	1
Maximum penalty—	2
(a) if the offender uses a hidden network or an anonymising service in committing the offence—25 years imprisonment; or	3 4 5
(b) otherwise—20 years imprisonment.	6
(2) Section 228B(2)—	7
<i>renumber</i> as section 228B(4).	8
(3) Section 228B—	9
<i>insert—</i>	10
(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	11 12 13
(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	14 15 16 17 18

Clause 89	Amendment of s 228C (Distributing child exploitation material)	19 20
(1)	Section 228C(1), penalty—	21
	<i>omit, insert—</i>	22
	Maximum penalty—	23
	(a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or	24 25 26
	(b) otherwise—14 years imprisonment.	27
(2)	Section 228C(2)—	28
	<i>omit, insert—</i>	29
	(2) The <i>Penalties and Sentences Act 1992</i> , section	30

	161Q also states a circumstance of aggravation for an offence against this section.	1 2
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	3 4 5 6 7
Clause 90	Amendment of s 228D (Possessing child exploitation material)	8 9
	(1) Section 228D, penalty—	10
	<i>omit, insert—</i>	11
	Maximum penalty—	12
	(a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or	13 14 15
	(b) otherwise—14 years imprisonment.	16
	(2) Section 228D—	17
	<i>insert—</i>	18
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	19 20 21
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	22 23 24 25 26
Clause 91	Insertion of new ss 228DA–228DC	27
	After section 228D—	28
	<i>insert—</i>	29

[s 91]

228DA Administering child exploitation material website	1 2
(1) A person who administers a website knowing the website is used to distribute child exploitation material commits a crime.	3 4 5
Maximum penalty—	6
(a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or	7 8 9
(b) otherwise—14 years imprisonment.	10
(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	11 12 13
(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	14 15 16 17 18
(4) It is a defence to a charge under this section to prove that the person, on becoming aware the website was being used to distribute child exploitation material, took all reasonable steps in the circumstances to prevent other persons from being able to use the website to access child exploitation material.	19 20 21 22 23 24 25
<i>Examples of steps that may be reasonable in the circumstances—</i>	26 27
• telling a police officer the website is being used to distribute child exploitation material and complying with any reasonable direction given by the police officer about what to do in relation to the website	28 29 30 31
• shutting the website down	32
• modifying the operation of the website so it can not be used to distribute or access child exploitation material	33 34 35
(5) In this section—	36

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- | | |
|----------------------------------------------------------------------------------------------------------|-------------|
| <i>administer</i> , a website, includes— | 1 |
| (a) design, create, manage or maintain the website, part of the website or a function of the website; or | 2
3
4 |
| (b) provide a device to host the website, part of the website or a function of the website; or | 5
6 |
| (c) facilitate the operation and use of the website, part of the website or a function of the website. | 7
8
9 |

228DB Encouraging use of child exploitation material website	10 11
---------------------------------------------------------------------	----------

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| (1) A person who, knowing a website is used to distribute child exploitation material, distributes information— | 12
13
14 |
| (a) to encourage someone, whether a particular person or not, to use the website; or | 15
16 |
| (b) to advertise or promote the website to someone, whether a particular person or not; | 17
18 |
| commits a crime. | 19 |
| Maximum penalty— | 20 |
| (a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or | 21
22
23 |
| (b) otherwise—14 years imprisonment. | 24 |
| (2) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section. | 25
26
27 |
| (3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer. | 28
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32 |

[s 92]

228DC Distributing information about avoiding detection	1
	2
(1) A person who distributes information about how to avoid detection of, or prosecution for, conduct that involves the commission of a child exploitation material offence commits a crime.	3
	4
	5
	6
Maximum penalty—	7
(a) if the offender uses a hidden network or an anonymising service in committing the offence—20 years imprisonment; or	8
	9
	10
(b) otherwise—14 years imprisonment.	11
(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	12
	13
	14
(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	15
	16
	17
	18
	19
(4) In this section—	20
<i>child exploitation material offence</i> means an offence against section 228A, 228B, 228C, 228D, 228DA, 228DB or this section.	21
	22
	23

Clause 92 Amendment of s 228E (Defences for ss 228A–228D)	24
(1) Section 228E, heading, ‘228D’—	25
<i>omit, insert—</i>	26
228DC	27
(2) Section 228E(1), ‘or 228D’—	28
<i>omit, insert—</i>	29
, 228D, 228DA, 228DB or 228DC	30

Clause 93	Amendment of s 228G (Forfeiture of child exploitation material etc.)	1 2
	Section 228G(1)(b), ‘or 228D’—	3
	<i>omit, insert—</i>	4
	, 228D, 228DA, 228DB or 228DC	5
Clause 94	Amendment of s 228H (Possession etc. of child exploitation material by law enforcement officer)	6 7
	Section 228H(1), ‘or 228D’—	8
	<i>omit, insert—</i>	9
	, 228D, 228DA, 228DB or 228DC	10
Clause 95	Amendment of s 229B (Maintaining a sexual relationship with a child)	11 12
	Section 229B—	13
	<i>insert—</i>	14
	(6A) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for the crime.	15 16 17
Clause 96	Amendment of s 229G (Procuring engagement in prostitution)	18 19
	Section 229G—	20
	<i>insert—</i>	21
	(2A) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	22 23 24
	(2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	25 26 27 28 29

[s 97]

Clause 97	Amendment of s 229H (Knowingly participating in provision of prostitution)	1 2
	Section 229H—	3
	<i>insert—</i>	4
	(3) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	5 6 7
	(4) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	8 9 10 11 12
Clause 98	Amendment of s 229HB (Carrying on business of providing unlawful prostitution)	13 14
	Section 229HB—	15
	<i>insert—</i>	16
	(2A) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	17 18 19
	(2B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	20 21 22 23 24
Clause 99	Amendment of s 229K (Having an interest in premises used for prostitution etc.)	25 26
	Section 229K—	27
	<i>insert—</i>	28
	(9) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	29 30 31

[s 100]

	(10) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	1 2 3 4 5
Clause 100	Amendment of s 229L (Permitting young person etc. to be at place used for prostitution)	6 7
	Section 229L—	8
	<i>insert—</i>	9
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	10 11 12
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	13 14 15 16 17
Clause 101	Amendment of s 302 (Definition of <i>murder</i>)	18
	Section 302—	19
	<i>insert—</i>	20
	(5) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	21 22 23 24 25
Clause 102	Amendment of s 303 (Definition of <i>manslaughter</i>)	26
	Section 303—	27
	<i>insert—</i>	28
	(2) An indictment charging an offence against this section with the circumstance of aggravation	29 30

[s 103]

stated in the *Penalties and Sentences Act 1992*, 1
section 161Q may not be presented without the 2
consent of a Crown Law Officer. 3

Clause 103 Amendment of s 305 (Punishment of murder) 4

Section 305— 5

insert— 6

- (5) The *Penalties and Sentences Act 1992*, section 7
161Q also states a circumstance of aggravation 8
for the crime of murder. 9

Clause 104 Amendment of s 306 (Attempt to murder) 10

Section 306— 11

insert— 12

- (2) The *Penalties and Sentences Act 1992*, section 13
161Q states a circumstance of aggravation for an 14
offence against this section. 15
- (3) An indictment charging an offence against this 16
section with the circumstance of aggravation 17
stated in the *Penalties and Sentences Act 1992*, 18
section 161Q may not be presented without the 19
consent of a Crown Law Officer. 20

Clause 105 Amendment of s 307 (Accessory after the fact to murder) 21

Section 307— 22

insert— 23

- (2) The *Penalties and Sentences Act 1992*, section 24
161Q states a circumstance of aggravation for an 25
offence against this section. 26
- (3) An indictment charging an offence against this 27
section with the circumstance of aggravation 28
stated in the *Penalties and Sentences Act 1992*, 29

[s 106]

	section 161Q may not be presented without the consent of a Crown Law Officer.	1 2
Clause 106	Amendment of s 308 (Threats to murder in document)	3
	Section 308—	4
	<i>insert—</i>	5
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	6 7 8
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	9 10 11 12 13
Clause 107	Amendment of s 309 (Conspiring to murder)	14
	Section 309—	15
	<i>insert—</i>	16
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	17 18 19
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	20 21 22 23 24
Clause 108	Amendment of s 310 (Punishment of manslaughter)	25
	Section 310—	26
	<i>insert—</i>	27
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for the	28 29

[s 109]

	crime of manslaughter.	1
Clause 109	Amendment of s 314A (Unlawful striking causing death)	2
	Section 314A—	3
	<i>insert—</i>	4
	(1A) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	5 6 7
	(1B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	8 9 10 11 12
Clause 110	Amendment of s 317 (Acts intended to cause grievous bodily harm and other malicious acts)	13 14
	Section 317—	15
	<i>insert—</i>	16
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	17 18 19
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	20 21 22 23 24
Clause 111	Amendment of s 317A (Carrying or sending dangerous goods in a vehicle)	25 26
	Section 317A—	27
	<i>insert—</i>	28
	(2A) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an	29 30

	offence against this section.	1
(2B)	An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	2 3 4 5 6
Clause 112	Amendment of s 320 (Grievous bodily harm)	7
(1)	Section 320(2) and (3)— <i>omit.</i>	8 9
(2)	Section 320(3A), ‘section 108B also states’— <i>omit, insert—</i> sections 108B and 161Q state	10 11 12
(3)	Section 320(4)— <i>omit, insert—</i>	13 14
(4)	An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	15 16 17 18 19
Clause 113	Amendment of s 320A (Torture)	20
	Section 320A— <i>insert—</i>	21 22
(1A)	The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	23 24 25
(1B)	An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	26 27 28 29 30

[s 114]

Clause 114	Amendment of s 321 (Attempting to injure by explosive or noxious substances)	1 2
	Section 321—	3
	<i>insert—</i>	4
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	5 6 7
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	8 9 10 11 12
 Clause 115	 Amendment of s 339 (Assaults occasioning bodily harm)	 13
	(1) Section 339(4), ‘section 108B also states’—	14
	<i>omit, insert—</i>	15
	sections 108B and 161Q also state	16
	(2) Section 339—	17
	<i>insert—</i>	18
	(5) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	19 20 21 22 23
 Clause 116	 Amendment of s 340 (Serious assaults)	 24
	(1) Section 340(1A) and (1B)—	25
	<i>omit.</i>	26
	(2) Section 340(1C), ‘section 108B also states’—	27
	<i>omit, insert—</i>	28
	sections 108B and 161Q also state	29

-
- (3) Section 340— 1
insert— 2
(1D) An indictment charging an offence against 3
subsection (1)(b) with the circumstance of 4
aggravation stated in the *Penalties and Sentences* 5
Act 1992, section 161Q may not be presented 6
without the consent of a Crown Law Officer. 7
(4) Section 340(3), definition *participant—* 8
omit. 9

Clause 117 Amendment of s 349 (Rape) 10

- Section 349— 11
insert— 12
(4) The *Penalties and Sentences Act 1992*, section 13
161Q states a circumstance of aggravation for an 14
offence against this section. 15
(5) An indictment charging an offence against this 16
section with the circumstance of aggravation 17
stated in the *Penalties and Sentences Act 1992*, 18
section 161Q may not be presented without the 19
consent of a Crown Law Officer. 20

Clause 118 Amendment of s 350 (Attempt to commit rape) 21

- Section 350— 22
insert— 23
(2) The *Penalties and Sentences Act 1992*, section 24
161Q states a circumstance of aggravation for an 25
offence against this section. 26
(3) An indictment charging an offence against this 27
section with the circumstance of aggravation 28
stated in the *Penalties and Sentences Act 1992*, 29
section 161Q may not be presented without the 30
consent of a Crown Law Officer. 31

[s 119]

Clause 119	Amendment of s 351 (Assault with intent to commit rape)	1
	Section 351—	2
	<i>insert—</i>	3
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	4 5 6
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	7 8 9 10 11
Clause 120	Amendment of s 352 (Sexual assaults)	12
	Section 352—	13
	<i>insert—</i>	14
	(4) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	15 16 17
	(5) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	18 19 20 21 22
Clause 121	Amendment of s 354 (Kidnapping)	23
	Section 354—	24
	<i>insert—</i>	25
	(3) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	26 27 28
	(4) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> ,	29 30 31

[s 122]

	section 161Q may not be presented without the consent of a Crown Law Officer.	1 2
Clause 122	Amendment of s 354A (Kidnapping for ransom)	3
	Section 354A—	4
	<i>insert—</i>	5
	(5) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	6 7 8
	(6) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	9 10 11 12 13
Clause 123	Amendment of s 359 (Threats)	14
	Section 359—	15
	<i>insert—</i>	16
	(3) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	17 18 19
	(4) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	20 21 22 23 24
Clause 124	Amendment of s 359E (Punishment of unlawful stalking)	25
	Section 359E—	26
	<i>insert—</i>	27
	(5) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation	28 29

[s 125]

for an offence against this section. 1

- (6) An indictment charging an offence against this 2
section with the circumstance of aggravation 3
stated in the *Penalties and Sentences Act 1992*, 4
section 161Q may not be presented without the 5
consent of a Crown Law Officer. 6

Clause 125 Amendment of s 398 (Punishment of stealing) 7

Section 398— 8

insert— 9

- (2) The *Penalties and Sentences Act 1992*, section 10
161Q states a circumstance of aggravation for an 11
offence against this section. 12
- (3) An indictment charging an offence against this 13
section with the circumstance of aggravation 14
stated in the *Penalties and Sentences Act 1992*, 15
section 161Q may not be presented without the 16
consent of a Crown Law Officer. 17

Clause 126 Amendment of s 408C (Fraud) 18

- (1) Section 408C(1)— 19

insert— 20

Maximum penalty—5 years imprisonment. 21

- (2) Section 408C(2)— 22

omit, insert— 23

- (2) The offender is liable to imprisonment for 14 24
years if, for an offence against subsection (1)— 25
- (a) the offender is a director or officer of a 26
corporation, and the victim is the 27
corporation; or 28
- (b) the offender is an employee of the victim; or 29

[s 127]

	(c) any property in relation to which the offence is committed came into the possession or control of the offender subject to a trust, direction or condition that it should be applied to any purpose or be paid to any person specified in the terms of trust, direction or condition or came into the offender's possession on account of any other person; or	1 2 3 4 5 6 7 8 9
	(d) the property, or the yield to the offender from the dishonesty, or the detriment caused, is of a value of at least \$30,000 but less than \$100,000.	10 11 12 13
	(2A) The offender is liable to imprisonment for 20 years, if, for an offence against subsection (1)—	14 15
	(a) the property, or the yield to the offender from the dishonesty, or the detriment caused, is of a value of at least \$100,000; or	16 17 18
	(b) the offender carries on the business of committing the offence.	19 20
	(2B) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	21 22 23
	(2C) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	24 25 26 27 28
Clause 127	Amendment of s 408D (Obtaining or dealing with identification information)	29 30
	(1) Section 408D(1AA) and (1AB)— <i>omit.</i>	31 32
	(2) Section 408D(1) and (1A), penalty, '3 years'—	33

[s 128]

<i>omit, insert—</i>	1
5 years	2
(3) Section 408D—	3
<i>insert—</i>	4
(1B) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	5 6 7
(1C) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	8 9 10 11 12
(4) Section 408D(7), definition <i>participant</i> —	13
<i>omit.</i>	14

Clause 128	Amendment of s 409 (Definition of <i>robbery</i>)	15
	Section 409—	16
	<i>insert—</i>	17
	(2) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	18 19 20 21 22

Clause 129	Amendment of s 411 (Punishment of robbery)	23
	Section 411—	24
	<i>insert—</i>	25
	(3) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for the crime of robbery.	26 27 28

Clause 130	Amendment of s 412 (Attempted robbery)	1
	Section 412—	2
	<i>insert—</i>	3
	(4) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	4 5 6
	(5) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	7 8 9 10 11
Clause 131	Amendment of s 415 (Extortion)	12
	Section 415—	13
	<i>insert—</i>	14
	(1A) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	15 16 17
	(5A) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	18 19 20 21 22
Clause 132	Amendment of s 419 (Burglary)	23
	Section 419—	24
	<i>insert—</i>	25
	(5) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	26 27 28
	(6) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> ,	29 30 31

[s 133]

	section 161Q may not be presented without the consent of a Crown Law Officer.	1 2
Clause 133	Amendment of s 433 (Receiving tainted property)	3
	Section 433—	4
	<i>insert—</i>	5
	(1A) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	6 7 8
	(1B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	9 10 11 12 13
Clause 134	Amendment of s 552A (Charges of indictable offences that must be heard and decided summarily on prosecution election)	14 15 16
	Section 552A(1)(a)—	17
	<i>insert—</i>	18
	• section 205A	19
Clause 135	Amendment of s 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial)	20 21 22
	Section 552B(1)—	23
	<i>insert—</i>	24
	(ca) an offence against section 60A, 60B, 76 or 77B;	25 26

Clause 136	Amendment of s 552D (When Magistrates Court must abstain from jurisdiction)	1
		2
	(1) Section 552D(2A)—	3
	<i>omit, insert—</i>	4
	(2A) A Magistrates Court must abstain from dealing	5
	summarily with a charge of a prescribed offence	6
	if the defendant is alleged to have committed the	7
	offence with the circumstance of aggravation	8
	stated in the <i>Penalties and Sentences Act 1992</i> ,	9
	section 161Q.	10
	(2) Section 552D—	11
	<i>insert—</i>	12
	(4) In this section—	13
	<i>prescribed offence</i> see the <i>Penalties and</i>	14
	<i>Sentences Act 1992</i> , section 161N.	15
Clause 137	Amendment of s 590AD (Definitions for ch div 3)	16
	Section 590AD, definition <i>spent conviction—</i>	17
	<i>omit.</i>	18
Clause 138	Amendment of s 708A (Criteria for recommending an entity be declared a criminal organisation)	19
		20
	(1) Section 708A—	21
	<i>insert—</i>	22
	(1A) For this section, the <i>Penalties and Sentences Act</i>	23
	<i>1992</i> , section 161N, definitions <i>honorary</i>	24
	<i>member, prospective member</i> and <i>office holder</i>	25
	apply as if a reference in the definitions to an	26
	organisation were a reference to an entity.	27
	(2) Section 708A(2), definitions <i>participant</i> and <i>serious criminal</i>	28
	<i>activity—</i>	29
	<i>omit, insert—</i>	30

[s 139]

<i>participant</i> , in an entity, means a person—	1
(a) who—	2
(i) has been accepted as a member of the	3
entity, whether informally or through a	4
process set by the entity; and	5
<i>Example of a process set by an entity—</i>	6
paying a fee or levy	7
(ii) has not ceased to be a member of the	8
entity; or	9
(b) who is an honorary member of the entity; or	10
(c) who is a prospective member of the entity;	11
or	12
(d) who is an office holder of the entity; or	13
(e) who identifies himself or herself in any way	14
as belonging to the entity; or	15
(f) whose conduct in relation to the entity	16
would reasonably lead someone else to	17
consider the person to be a participant in the	18
entity.	19
<i>serious criminal activity</i> means conduct	20
constituting an indictable offence for which the	21
maximum penalty is at least 7 years	22
imprisonment.	23

Clause 139	Insertion of new pt 9, ch 96	24
	Part 9—	25
	<i>insert—</i>	26

Chapter 96	Transitional provisions	1
	for Serious and	2
	Organised Crime	3
	Legislation	4
	Amendment Act 2016	5
736	Review of consorting provisions	6
(1)	The Minister must, as soon as practicable after the	7
	day that is 5 years after the commencement of the	8
	consorting provisions, appoint a retired judge (the	9
	<i>reviewer</i>) to—	10
(a)	review the operation of the consorting	11
	provisions; and	12
(b)	prepare, and give the Minister, a written	13
	report on the outcome of the review.	14
(2)	The terms of reference for the review are the	15
	terms decided by the Minister.	16
(3)	Without limiting subsection (2), the terms of	17
	reference for the review must state the following	18
	matters—	19
(a)	the object of the review is for the reviewer to	20
	decide whether the consorting provisions	21
	have been effective in disrupting serious and	22
	organised crime;	23
(b)	if the reviewer decides the consorting	24
	provisions have not been effective in	25
	disrupting serious and organised crime, the	26
	reviewer must recommend any amendments	27
	of the provisions the reviewer considers	28
	necessary to improve the effectiveness of the	29
	provisions;	30
(c)	in conducting the review, the reviewer must	31
	consider whether any demographic has been	32

[s 139]

disproportionately or adversely affected by the consorting provisions.	1 2
<i>Examples of a demographic—</i>	3
Aboriginal people, Torres Strait Islanders, homeless people, drug dependent people	4 5
(4) The Minister must, within 14 sitting days after receiving the reviewer's report for the review, table a copy of the report in the Legislative Assembly.	6 7 8 9
(5) In this section—	10
<i>consorting provisions</i> means—	11
(a) part 2, chapter 9A; and	12
(b) the following provisions of the <i>Police Powers and Responsibilities Act 2000</i> —	13 14
• section 30(i)	15
• section 32(2)(b)	16
• section 41(p)	17
• section 41A	18
• section 43B	19
• chapter 2, part 6A	20
• section 60(3)(k).	21
<i>retired judge</i> means—	22
(a) a retired Supreme Court judge; or	23
(b) a retired District Court judge.	24
737 Regulation made by the Serious and Organised Crime Legislation Amendment Act 2016	25 26 27
(1) This section applies to the regulation made by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , section 494 and schedule 2.	28 29 30

- (2) The regulation is subordinate legislation. 1
- (3) The *Statutory Instruments Act 1992*, part 6 does 2
not apply to the regulation. 3

Division 3 Amendments commencing 3 months after assent 4 5

Clause 140	Amendment of s 1 (Definitions)	6
	Section 1—	7
	<i>insert</i> —	8
	<i>consort</i> , for part 2, chapter 9A, see section 77A.	9
	<i>conviction</i> , for part 2, chapter 9A, see section 77.	10
	<i>recognised offender</i> , for part 2, chapter 9A, see section 77.	11 12
	<i>relevant offence</i> , for part 2, chapter 9A, see section 77.	13 14

Clause 141	Insertion of new pt 2, ch 9A	15
	Part 2—	16
	<i>insert</i> —	17

Chapter 9A Consorting 18

77	Definitions for chapter	19
	In this chapter—	20
	<i>consort</i> see section 77A.	21
	<i>conviction</i> means a finding of guilt, or the acceptance of a plea of guilty, by a court.	22 23
	<i>recognised offender</i> means an adult who has a	24

[s 141]

- recorded conviction, other than a spent 1
conviction, for a relevant offence (whether on 2
indictment or summary conviction). 3
- relevant offence*** means— 4
- (a) an indictable offence for which the 5
maximum penalty is at least 5 years 6
imprisonment, including an offence against 7
a repealed provision of an Act; or 8
- (b) an offence against— 9
- (i) any of the following provisions of this 10
Code— 11
- section 61(1), if the penalty, 12
paragraph (c) applies 13
 - section 69 14
 - section 75 15
 - section 77B 16
 - section 130 17
 - section 229H 18
 - section 229HC 19
 - section 229I 20
 - section 229K 21
 - section 317A(2) 22
 - section 327 23
 - section 355 24
 - section 408D 25
 - section 413 26
 - section 414 27
 - section 470A; or 28
- (ii) any of the following provisions of the 29
Weapons Act 1990— 30

- section 50(1), if the penalty, 1
paragraph (c)(ii) or (iii) applies 2
- section 50B(1), if the penalty, 3
paragraph (c)(iii) applies 4
- section 57(3) or (4) 5
- section 58 6
- section 61 7
- section 62 8
- section 63 9
- section 69(1A), if the penalty, 10
paragraph (c) applies 11
- section 151B 12
- section 151D; or 13
- (c) an offence against the law of another State 14
or the Commonwealth, or a place outside 15
Australia, that, if the offence had been 16
committed in Queensland, would be a 17
relevant offence under paragraph (a) or (b); 18
or 19
- (d) an offence against either of the following 20
provisions— 21
 - the *Criminal Code* (Cwlth), section 22
102.8 23
 - the *Crimes Act 1900* (NSW), section 24
310J. 25

77A Meaning of *consort* 26

- (1) A person ***consorts*** with another person if the 27
person associates with the other person in a way 28
that involves seeking out, or accepting, the other 29
person's company. 30
- (2) For subsection (1), the person's association with 31

[s 141]

the other person need not have a purpose related to criminal activity. 1
2

- (3) Also, for subsection (1), it does not matter whether the person's association with the other person happens in person or in another way, including, for example, electronically. 3
4
5
6

77B Habitually consorting with recognised offenders 7 8

- (1) A person commits a misdemeanour if— 9
(a) the person habitually consorts with at least 2 recognised offenders, whether together or separately; and 10
11
12
(b) at least 1 occasion on which the person consorts with each recognised offender mentioned in paragraph (a) happens after the person has been given an official warning for consorting in relation to the offender. 13
14
15
16
17
18

Maximum penalty—300 penalty units or 3 years imprisonment. 19
20

- (2) For subsection (1), a person does not *habitually consort* with a recognised offender unless the person consorts with the offender on at least 2 occasions. 21
22
23
24

- (3) This section does not apply to a child. 25

- (4) In this section— 26

official warning, for consorting, see the *Police Powers and Responsibilities Act 2000*, section 53BAA. 27
28
29

77C Particular acts of consorting to be disregarded 30 31

- (1) In a proceeding against a person for an offence 32

-
- against section 77B(1), the following acts of
consorting must be disregarded if the consorting
was reasonable in the circumstances—
- (a) consorting with a recognised offender who
is a close family member of the person;
 - (b) consorting with a recognised offender while
the person is—
 - (i) genuinely conducting a lawful business
or genuinely engaging in lawful
employment or a lawful occupation; or
 - (ii) genuinely receiving education or
training at an educational institution; or
 - (iii) genuinely obtaining education or
training at an educational institution for
a dependent child of the person; or
 - (iv) receiving a health service; or
 - (v) obtaining a health service for a
dependent child of the person; or
 - (vi) obtaining legal services; or
 - (vii) complying with a court order; or
 - (viii) being detained in lawful custody.
- (2) Proof that the consorting was reasonable in the
circumstances lies on the person.
- (3) For subsection (1), it is not reasonable for a
person to consort with a recognised offender if the
purpose (or 1 of the purposes) of the consorting is
related to criminal activity.
- (4) In this section—
- Australian Association of Social Workers*** means
Australian Association of Social Workers Ltd
ACN 008 576 010.
- Australian Register of Counsellors and
Psychotherapists*** means Australian Register of
-

[s 141]

Counsellors and Psychotherapists Pty Ltd ACN 110 047 197.	1 2
<i>child</i> includes step-child.	3
<i>close family member</i> , of a person—	4
(a) means—	5
(i) a spouse of the person; or	6
(ii) someone with whom the person shares parental responsibility for a child; or	7 8
(iii) a parent or step-parent of the person; or	9
(iv) a child of the person; or	10
(v) a grandparent or step-grandparent of the person; or	11 12
(vi) a grandchild or step-grandchild of the person; or	13 14
(vii) a brother, sister, stepbrother or stepsister of the person; or	15 16
(viii) an aunt or uncle of the person; or	17
(ix) a niece or nephew of the person; or	18
(x) a first cousin of the person; or	19
(xi) a brother-in-law, sister-in-law, parent-in-law, son-in-law or daughter-in-law of the person; and	20 21 22
(b) includes—	23
(i) for an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a person mentioned in paragraph (a); and	24 25 26 27
(ii) for a Torres Strait Islander—a person who, under Island custom, is regarded as a person mentioned in paragraph (a).	28 29 30
<i>dependent child</i> , of a person, means a child of the	31

-
- person who is dependent on the person for support. 1
2
- educational institution*** means— 3
- (a) an approved education and care service 4
under the Education and Care Services 5
National Law (Queensland); or 6
- (b) a State educational institution or non-State 7
school under the *Education (General 8*
Provisions) Act 2006; or 9
- (c) a registered higher education provider under 10
the *Tertiary Education Quality and 11*
Standards Agency Act 2011 (Cwlth); or 12
- (d) a registered training organisation under the 13
National Vocational Education and Training 14
Regulator Act 2011 (Cwlth). 15
- health service*** means a service for managing a 16
person's physical or mental health, including drug 17
and alcohol counselling, that is provided by— 18
- (a) a registered health practitioner or student 19
under the Health Practitioner Regulation 20
National Law (Queensland); or 21
- (b) a counsellor or psychotherapist registered 22
with the Australian Register of Counsellors 23
and Psychotherapists; or 24
- (c) a social worker registered with the 25
Australian Association of Social Workers. 26
- legal services*** means legal services within the 27
meaning of the *Legal Profession Act 2007* that are 28
provided by an Australian legal practitioner 29
within the meaning of that Act. 30

[s 142]

Division 4	Amendments commencing 2 years after assent	1 2
Clause 142	Amendment of s 1 (Definitions)	3
	Section 1, definition <i>criminal organisation</i> —	4
	<i>omit, insert</i> —	5
	<i>criminal organisation</i> see the <i>Penalties and Sentences Act 1992</i> , section 161O.	6 7
Clause 143	Omission of s 60A (Participants in criminal organisation being knowingly present in public places)	8 9
	Section 60A—	10
	<i>omit.</i>	11
Clause 144	Omission of s 60B (Participants in criminal organisation entering prescribed places and attending prescribed events)	12 13 14
	Section 60B—	15
	<i>omit.</i>	16
Clause 145	Omission of s 708A (Criteria for recommending an entity be declared a criminal organisation)	17 18
	Section 708A—	19
	<i>omit.</i>	20
Clause 146	Insertion of new s 738	21
	Part 9, chapter 96, as inserted by this Act—	22
	<i>insert</i> —	23

738 Offences against ss 60A and 60B charged before repeal	1
	2
(1) This section applies if—	3
(a) a person was charged with an offence against section 60A or 60B before the section was repealed; and	4
	5
	6
(b) at the time of the repeal, the proceeding for the offence had not been finally decided.	7
	8
(2) The proceeding for the offence may be continued, and the person may be punished for the offence, as if the section had not been repealed.	9
	10
	11
(3) To remove any doubt, it is declared that section 11 does not limit subsection (2).	12
	13

Part 8	Amendment of Criminal Law	14
	(Criminal Organisations	15
	Disruption) and Other	16
	Legislation Amendment Act	17
	2013	18

Clause 147	Act amended	19
	This part amends the <i>Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013</i> .	20
		21
Clause 148	Amendment of s 2 (Commencement)	22
	(1) Section 2(1)(f)—	23
	omit, insert—	24
	(f) part 8.	25
	(2) Section 2(3)—	26
	omit, insert—	27

	(3) Part 8 commences on 1 July 2017.	1
Clause 149	Omission of ss 57–63	2
	Sections 57 to 63—	3
	<i>omit.</i>	4
	<i>Editor’s note—</i>	5
	Legislation ultimately amended—	6
	• <i>Electrical Safety Act 2002</i>	7
Clause 150	Omission of ss 65–68	8
	Sections 65 to 68—	9
	<i>omit.</i>	10
	<i>Editor’s note—</i>	11
	Legislation ultimately amended—	12
	• <i>Electrical Safety Act 2002</i>	13
Clause 151	Omission of ss 70 and 71	14
	Sections 70 and 71—	15
	<i>omit.</i>	16
	<i>Editor’s note—</i>	17
	Legislation ultimately amended—	18
	• <i>Electrical Safety Act 2002</i>	19
Clause 152	Omission of pt 14 (Amendment of Queensland Building Services Authority Act 1991)	20
	Part 14—	21
	<i>omit.</i>	22
	<i>Editor’s note—</i>	23
	Legislation ultimately amended—	24
	• <i>Queensland Building and Construction Commission Act 1991</i>	25
		26

Clause 153	Omission of pt 24 (Amendment of Work Health and Safety Act 2011)	1
	Part 24—	2
	<i>omit.</i>	3
	<i>Editor's note—</i>	4
	Legislation ultimately amended—	5
	• <i>Work Health and Safety Act 2011</i>	6
		7
Part 9	Amendment of Criminal Proceeds Confiscation Act 2002	8
		9
		10
Clause 154	Act amended	11
	This part amends the <i>Criminal Proceeds Confiscation Act 2002</i> .	12
		13
Clause 155	Amendment of s 250 (Money laundering)	14
	(1) Section 250(2B)(a), 'criminal'—	15
	<i>omit, insert—</i>	16
	unlawful	17
	(2) Section 250—	18
	<i>insert—</i>	19
	(3A) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	20
		21
		22
	(3B) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	23
		24
		25
		26
		27

[s 156]

Clause 156	Amendment of s 251 (Charging of money laundering)	1
	(1) Section 251(1) to (3)—	2
	<i>omit.</i>	3
	(2) Section 251(4) and (5)—	4
	<i>renumber</i> as section 251(1) and (2).	5
 Clause 157	 Insertion of new ch 12, pt 5	 6
	Chapter 12—	7
	<i>insert—</i>	8
	Part 5	9
	Transitional provision	10
	for Serious and	11
	Organised Crime	12
	Legislation	13
	Amendment Act 2016	
	 295 Relevant money laundering proceedings	14
	started before commencement	15
	(1) This section applies if—	16
	(a) a relevant money laundering proceeding was	17
	started but not decided before the	18
	commencement; and	19
	(b) the Attorney-General’s written consent for	20
	the proceeding had not been obtained under	21
	section 251(3) as in force before the	22
	commencement.	23
	(2) The proceeding may be heard and decided	24
	without the Attorney-General’s written consent.	25
	(3) In this section—	26
	<i>relevant money laundering proceeding</i> means a	27
	proceeding for money laundering started other	28
	than by complaint under the <i>Justices Act 1886</i> .	29

Part 10	Amendment of Disability Services Act 2006	1
		2
Clause 158	Act amended	3
	This part amends the <i>Disability Services Act 2006</i> .	4
Clause 159	Amendment of sch 2 (Current serious offences)	5
	Schedule 2, item 4, table—	6
	<i>insert—</i>	7
228DA	Administering child exploitation material website	
228DB	Encouraging use of child exploitation material website	
228DC	Distributing information about avoiding detection	
Clause 160	Amendment of sch 4 (Current disqualifying offences)	8
	Schedule 4, item 4, table—	9
	<i>insert—</i>	10
228DA	Administering child exploitation material website	
228DB	Encouraging use of child exploitation material website	
228DC	Distributing information about avoiding detection	

[s 161]

Part 11	Amendment of District Court of Queensland Act 1967	1 2
Clause 161	Act amended	3
	This part amends the <i>District Court of Queensland Act 1967</i> .	4
Clause 162	Amendment of s 61 (Criminal jurisdiction if maximum penalty more than 20 years)	5 6
	(1) Section 61(2)—	7
	<i>insert—</i>	8
	(c) an offence under the <i>Drugs Misuse Act 1986</i> , section 5 if the dangerous drug the subject of the charge is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2.	9 10 11 12 13
	(2) Section 61—	14
	<i>insert—</i>	15
	(4) Also, subsection (5) applies in relation to a person charged with a prescribed offence if the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q is alleged to exist in relation to the offence.	16 17 18 19 20
	(5) For applying subsection (1) to the person, the mandatory component of the sentence that must be imposed for the prescribed offence under the <i>Penalties and Sentences Act 1992</i> , section 161R(2) must be disregarded.	21 22 23 24 25
	(6) In this section—	26
	<i>prescribed offence</i> see the <i>Penalties and Sentences Act 1992</i> , section 161N.	27 28

Part 12	Amendment of Drugs Misuse Act 1986	1 2
Clause 163	Act amended	3
	This part amends the <i>Drugs Misuse Act 1986</i> .	4
	<i>Note—</i>	5
	See also the amendments in schedule 1.	6
Clause 164	Amendment of s 5 (Trafficking in dangerous drugs)	7
	(1) Section 5(1), penalty—	8
	<i>omit, insert—</i>	9
	Maximum penalty—25 years imprisonment.	10
	(2) Section 5(2) and (3)—	11
	<i>omit, insert—</i>	12
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	13 14 15
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	16 17 18 19 20
Clause 165	Amendment of s 6 (Supplying dangerous drugs)	21
	Section 6—	22
	<i>insert—</i>	23
	(3) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	24 25 26
	(4) An indictment charging an offence against this section with the circumstance of aggravation	27 28

[s 166]

	stated in the <i>Penalties and Sentences Act 1992</i> ,	1
	section 161Q may not be presented without the	2
	consent of a Crown Law Officer.	3
Clause 166	Amendment of s 7 (Receiving or possessing property obtained from trafficking or supplying)	4
	Section 7—	5
	<i>insert—</i>	6
	(2A) The <i>Penalties and Sentences Act 1992</i> , section	7
	161Q states a circumstance of aggravation for an	8
	offence against this section.	9
	(2B) An indictment charging an offence against this	10
	section with the circumstance of aggravation	11
	stated in the <i>Penalties and Sentences Act 1992</i> ,	12
	section 161Q may not be presented without the	13
	consent of a Crown Law Officer.	14
		15
Clause 167	Amendment of s 8 (Producing dangerous drugs)	16
	Section 8—	17
	<i>insert—</i>	18
	(3) The <i>Penalties and Sentences Act 1992</i> , section	19
	161Q also states a circumstance of aggravation	20
	for an offence against this section.	21
	(4) An indictment charging an offence against this	22
	section with the circumstance of aggravation	23
	stated in the <i>Penalties and Sentences Act 1992</i> ,	24
	section 161Q may not be presented without the	25
	consent of a Crown Law Officer.	26
Clause 168	Amendment of s 9B (Supplying relevant substances or things)	27
	Section 9B—	28
	<i>insert—</i>	29
		30

[s 169]

	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	1 2 3
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	4 5 6 7 8
Clause 169	Amendment of s 9C (Producing relevant substances or things)	9 10
	Section 9C—	11
	<i>insert—</i>	12
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	13 14 15
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	16 17 18 19 20
Clause 170	Amendment of s 9D (Trafficking in relevant substances or things)	21 22
	Section 9D—	23
	<i>insert—</i>	24
	(2) The <i>Penalties and Sentences Act 1992</i> , section 161Q states a circumstance of aggravation for an offence against this section.	25 26 27
	(3) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	28 29 30 31 32

[s 171]

Clause 171	Amendment of s 13 (Certain offences may be dealt with summarily)	1 2
	Section 13—	3
	<i>insert—</i>	4
	(2A) Despite subsections (1) and (2), proceedings may not be taken summarily in relation to a charge of an offence defined in section 6, 7, 8, 9B or 9C if the prosecution alleges the offence was committed with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q.	5 6 7 8 9 10 11
Part 13	Amendment of Evidence Act 1977	12 13
Clause 172	Act amended	14
	This part amends the <i>Evidence Act 1977</i> .	15
Clause 173	Amendment of s 21A (Evidence of special witnesses)	16
	(1) Section 21A(1), definitions <i>criminal organisation</i> , <i>prescribed proceeding</i> and <i>serious criminal offence—</i>	17 18
	<i>omit.</i>	19
	(2) Section 21A(1)—	20
	<i>insert—</i>	21
	<i>criminal organisation</i> see the <i>Penalties and Sentences Act 1992</i> , section 161O.	22 23
	<i>participant</i> , in a criminal organisation, see the <i>Penalties and Sentences Act 1992</i> , section 161P.	24 25
	<i>serious criminal offence</i> means—	26

[s 174]

- (a) an indictable offence punishable by at least 1
7 years imprisonment, including an offence 2
against a repealed provision of an Act; or 3
- (b) a prescribed offence as defined under the 4
Penalties and Sentences Act 1992, section 5
161N, other than an offence mentioned in 6
paragraph (a), charged with a circumstance 7
of aggravation stated in section 161Q of that 8
Act. 9
- (3) Section 21A(1), definition *special witness*, paragraph (c), 10
'member of'— 11
omit, insert— 12
participant in 13
- (4) Section 21A(2)(a), 'or other prescribed'— 14
omit. 15

Clause 174	Insertion of new pt 9, div 7	16
	Part 9—	17
	<i>insert—</i>	18
	Division 7	19
	Serious and Organised	20
	Crime Legislation	21
	Amendment Act 2016	21

- 148 Special witnesses** 22
- An order or direction made or given under section 23
21A before the commencement continues to have 24
effect as an order or direction made or given under 25
the section as amended by the *Serious and* 26
Organised Crime Legislation Amendment Act 27
2016. 28

[s 175]

Part 14 **Amendment of Liquor Act 1992** 1

Clause 175 **Act amended** 2

This part amends the *Liquor Act 1992*. 3

Note— 4

See also the amendments in schedule 1. 5

Clause 176 **Amendment of s 4 (Definitions)** 6

(1) Section 4, definitions *affected by bankruptcy action*,
assessment period, *criminal organisation*, *declared criminal*
organisation, *identified participant*, *prostitution* and *section*
228B decision— 10

omit. 11

(2) Section 4— 12

insert— 13

control order see the *Penalties and Sentences Act*
1992, section 161N. 14

criminal intelligence see the Criminal Code,
section 86(3). 17

identified organisation, for part 6, division 5, see
section 173EA. 19

prescribed offence means— 20

(a) an offence against the Criminal Code,
section 76; or 22

(b) an offence mentioned in the Criminal Code,
part 2, chapter 9A; or 24

(c) an offence against the *Peace and Good*
Behaviour Act 1982, section 32, 54 or 75; or 26

(d) an offence that is— 27

[s 177]

-
- (i) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and
 - (ii) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q; or
 - (e) an offence against the *Penalties and Sentences Act 1992*, section 161ZI.
 - prohibited person*, for part 6, division 5, see section 173EA.
 - registered corresponding control order* see the *Penalties and Sentences Act 1992*, section 161N.
 - (3) Section 4, definition *disqualified person*, ‘or 228B’—
omit.
 - Clause 177 Omission of s 11B (Particular entities not exempt)**
Section 11B—
omit.
 - Clause 178 Amendment of s 13 (Exemption for the sale of liquor at fundraising event)**
Section 13(4)—
omit, insert—
 - (4) However, an entity is not an *eligible entity* if, when the fundraising event is held, the entity or an executive officer of the entity is disqualified from holding a licence under part 5, division 3, subdivision 3.

[s 179]

Clause 179	Amendment of pt 2, hdg (Jurisdiction of tribunal and application of Judicial Review Act 1991)	1 2
	Part 2, heading, ‘and application of Judicial Review Act 1991’—	3 4
	<i>omit.</i>	5
Clause 180	Amendment of s 21 (Jurisdiction and powers of tribunal)	6
	(1) Section 21(1)(l), ‘or 142ZQA’—	7
	<i>omit.</i>	8
	(2) Section 21(1)(u)—	9
	<i>omit, insert—</i>	10
	(u) a withdrawal of an approval under section 139D; or	11 12
Clause 181	Omission of pt 2, div 3 (Review of decisions relating to particular disqualified persons)	13 14
	Part 2, division 3—	15
	<i>omit.</i>	16
Clause 182	Replacement of ss 47B and 47C	17
	Sections 47B and 47C—	18
	<i>omit, insert—</i>	19
	47B Exchange of information	20
	(1) The commissioner may enter into an arrangement (an <i>information-sharing arrangement</i>) with the police commissioner for the purpose of sharing or exchanging information—	21 22 23 24
	(a) held by the commissioner or the police commissioner; or	25 26
	(b) to which the commissioner or the police commissioner has access.	27 28

-
- (2) An information-sharing arrangement may relate only to information that assists—
- (a) the commissioner perform the commissioner's functions under this Act; or
- (b) the police commissioner perform the police commissioner's functions.
- (3) Under an information-sharing arrangement, the commissioner and the police commissioner are, despite another Act or law, authorised to—
- (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
- (b) disclose information to the other party.
- (4) The commissioner may use criminal intelligence given to the commissioner under an information-sharing arrangement only for monitoring compliance with this Act.

47C Police commissioner to notify of charges

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

[s 182]

- (d) the date of the charge. 1
- (4) The commissioner may confirm the suspicion of 2
the police commissioner mentioned in subsection 3
(1)(b). 4
- (5) In this section— 5
 - associate*, of a holder of an adult entertainment 6
permit, means an individual who— 7
 - (a) is a member of the holder’s family; or 8
 - (b) has entered into a business arrangement or 9
relationship with the holder for the 10
provision of adult entertainment; or 11
 - (c) is the owner or lessor, either alone or jointly, 12
of premises used or proposed to be used for 13
the provision of adult entertainment under 14
the adult entertainment permit; or 15
 - (d) if the holder of the adult entertainment 16
permit is an executive officer of a 17
corporation—is another executive officer of 18
the corporation. 19
 - relevant person* means— 20
 - (a) an approved manager; or 21
 - (b) an adult entertainment controller; or 22
 - (c) an individual who— 23
 - (i) is a licensee, permittee or approved 24
operator; or 25
 - (ii) holds a licence or permit on behalf of 26
an unincorporated association; or 27
 - (iii) holds an approval mentioned in section 28
153(1) or (3); or 29
 - (iv) for a licence or permit held on behalf of 30
a partnership—is a partner in the 31
partnership; or 32

[s 183]

	(d) an executive officer of a corporation or unincorporated association that—	1 2
	(i) is a licensee, permittee or approved operator; or	3 4
	(ii) holds an approval mentioned in section 153(1) or (3); or	5 6
	(e) an associate of a holder of an adult entertainment permit.	7 8
Clause 183	Amendment of s 107 (Restrictions on grant of licence or permit)	9 10
	(1) Section 107(1)—	11
	<i>insert—</i>	12
	(d) whether the applicant has been convicted of a prescribed offence; and	13 14
	(e) if the applicant is, or has been, the subject of a control order or registered corresponding control order—the terms of the order.	15 16 17
	(2) Section 107(6)—	18
	<i>omit, insert—</i>	19
	(6) A report under subsection (5)(a) must—	20
	(a) include reference to or disclosure of convictions of the applicant or person mentioned in the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , section 6; and	21 22 23 24 25
	(b) if the applicant or person is, or has been, the subject of a control order or registered corresponding control order—	26 27 28
	(i) state the details of the order; or	29
	(ii) be accompanied by a copy of the order.	30
	(6A) For subsection (1), the commissioner may not	31

[s 184]

	have regard to criminal intelligence in deciding	1
	whether a person is, or continues to be, a fit and	2
	proper person to hold a licence or permit under	3
	this Act.	4
(3)	Section 107(6A) and (7)—	5
	<i>renumber</i> as section 107(7) and (8).	6
Clause 184	Amendment of s 107E (Suitability of applicant for adult	7
	entertainment permit)	8
(1)	Section 107E(1)(b)—	9
	<i>insert—</i>	10
	(iii) a prescribed offence;	11
(2)	Section 107E(1)(c)—	12
	<i>insert—</i>	13
	(iii) a prescribed offence;	14
(3)	Section 107E(1)(d)—	15
	<i>insert—</i>	16
	(iii) a prescribed offence;	17
(4)	Section 107E(1)(h) to (k)—	18
	<i>omit, insert—</i>	19
	(h) whether the applicant is a disqualified	20
	person;	21
	(i) if the applicant or an associate of the	22
	applicant is, or has been, the subject of a	23
	control order or registered corresponding	24
	control order—the terms of the order;	25
(5)	Section 107E(1)(l)—	26
	<i>renumber</i> as section 107E(1)(j).	27
(6)	Section 107E—	28
	<i>insert—</i>	29

	(3) For subsection (1), the commissioner may not have regard to criminal intelligence in deciding whether a person is, or continues to be, a suitable person to hold an adult entertainment permit under this Act.	1 2 3 4 5
Clause 185	Amendment of s 107F (Application to be referred to police commissioner)	6 7
	(1) Section 107F(2)(a)—	8
	<i>omit, insert—</i>	9
	(a) must make inquiries about the criminal history of the applicant, including whether the applicant is, or has been, the subject of a control order or registered corresponding control order; and	10 11 12 13 14
	(aa) must make inquiries about the criminal history of each associate of the applicant, including whether the associate is, or has been, the subject of a control order or registered corresponding control order; and	15 16 17 18 19
	(2) Section 107F(2)(a) to (b)—	20
	<i>renumber</i> as section 107F(2)(a) to (c).	21
	(3) Section 107F(5)—	22
	<i>omit, insert—</i>	23
	(5) The police commissioner's report must—	24
	(a) include reference to or disclosure of convictions of the person mentioned in the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , section 6; and	25 26 27 28
	(b) if the applicant or an associate of the applicant is, or has been, the subject of a control order or registered corresponding control order—	29 30 31 32
	(i) state the details of the order; or	33

[s 186]

	(ii) be accompanied by a copy of the order.	1
Clause 186	Amendment of s 129 (Applications to continue trading in certain circumstances)	2
	Section 129(2)(e)—	3
	<i>omit.</i>	4
		5
Clause 187	Amendment of s 134 (Cancellation, suspension or variation of permits)	6
	(1) Section 134(1)—	7
	<i>insert—</i>	8
	(c) the permittee is not, or is no longer, a fit and proper person to hold the permit.	9
		10
	(2) Section 134—	11
	<i>insert—</i>	12
	(2B) For subsection (1)(c), the commissioner may have regard to the matters mentioned in section 107 to which the commissioner must have regard in deciding whether an applicant is a fit and proper person to hold a permit.	13
		14
		15
		16
		17
		18
	(3) Section 134(3)—	19
	<i>omit, insert—</i>	20
	(3) The commissioner must immediately cancel a permit if the commissioner is satisfied the permittee has become a disqualified person.	21
		22
		23
Clause 188	Replacement of ss 134A and 134B	24
	Sections 134A and 134B—	25
	<i>omit, insert—</i>	26

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

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

134B Show cause notice

(1) This section applies if, having regard to the
relevant matters, the commissioner reasonably
believes a ground for taking relevant action for an
adult entertainment permit exists.

(2) The commissioner must give the person who
holds the permit a written notice that—

(a) states the relevant action relating to the
permit that the commissioner proposes to
take; and

(b) states the grounds for the relevant action;
and

(c) states an outline of the facts and
circumstances forming the basis for the
grounds; and

(d) invites the person to show within a stated
period, not less than 14 days after the notice
is given to the person, why the relevant
action should not be taken.

(3) In this section—

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

[s 189]

Clause 189	Amendment of s 134C (Decision about relevant action relating to permit)	1 2
(1)	Section 134C, heading, before ‘permit’— <i>insert—</i>	3 4
	adult entertainment	5
(2)	Section 134C(1), ‘permit, the’— <i>omit, insert—</i>	6 7
	adult entertainment permit, the	8
(3)	Section 134C(2)— <i>omit.</i>	9 10
(4)	Section 134C(4), ‘(3)’— <i>omit, insert—</i>	11 12
	(2)	13
(5)	Section 134C(3) and (4)— <i>renumber</i> as section 134C(2) and (3).	14 15
Clause 190	Omission of s 134D (Urgent suspension)	16
	Section 134D— <i>omit.</i>	17 18
Clause 191	Amendment of s 135 (Summary cancellation, suspension or variation)	19 20
	Section 135(1), ‘134, 134C or 134D’— <i>omit, insert—</i>	21 22
	134 or 134C	23
Clause 192	Amendment of s 136 (Grounds for disciplinary action)	24
(1)	Section 136(1)(b)— <i>insert—</i>	25 26

	(ii) a prescribed offence; or	1
	(2) Section 136(1)(e), ‘licence;’—	2
	<i>omit, insert—</i>	3
	licence, having regard to the matters mentioned in	4
	section 107 to which the commissioner must have	5
	regard in deciding whether an applicant is not a	6
	disqualified person and is a fit and proper person	7
	to hold a licence.	8
	(3) Section 136(2)—	9
	<i>omit.</i>	10
Clause 193	Amendment of s 137 (Procedure for taking disciplinary action in relation to licence)	11
	Section 137(3) and (4)—	12
	<i>omit.</i>	13
		14
Clause 194	Amendment of s 137A (Decision about disciplinary action)	15
	Section 137A(1A)—	16
	<i>omit.</i>	17
		18
Clause 195	Amendment of s 137C (Urgent suspension)	19
	Section 137C(2)—	20
	<i>omit.</i>	21
Clause 196	Omission of s 137CA (Immediate cancellation of particular licences)	22
	Section 137CA—	23
	<i>omit.</i>	24
		25

[s 197]

Clause 197	Omission of s 139B (Urgent suspension of approval)	1
	Section 139B—	2
	<i>omit.</i>	3
Clause 198	Replacement of s 139C (Show cause notice for withdrawal of approval)	4
	Section 139C—	5
	<i>omit, insert—</i>	6
	139C Show cause notice for withdrawal of approval	7
	(1) This section applies if, having regard to the	8
	relevant matters, the commissioner reasonably	9
	believes the lessee, sublessee, franchisee or	10
	manager under the relevant agreement—	11
	(a) is a disqualified person; or	12
	(b) is not, or is no longer, a fit and proper person	13
	to lease, sublease, franchise or manage the	14
	licensed premises.	15
	(2) The commissioner must give the licensee and the	16
	lessee, sublessee, franchisee or manager a written	17
	notice that—	18
	(a) states the commissioner proposes to	19
	withdraw the commissioner's approval of	20
	the agreement; and	21
	(b) states the grounds for the proposed	22
	withdrawal; and	23
	(c) invites the licensee, lessee, sublessee,	24
	franchisee or manager to show within a	25
	stated period, not less than 14 days after the	26
	notice is given to the person, why the	27
	approval should not be withdrawn.	28
	(3) In this section—	29
	<i>relevant matters</i> means the matters mentioned in	30
	section 107 to which the commissioner must have	31
		32

[s 199]

	regard in deciding whether an applicant is not a disqualified person and is a fit and proper person to hold a licence.	1 2 3
Clause 199	Amendment of s 139D (Decision about withdrawing approval of relevant agreement)	4 5
	Section 139D(1)(a), '139B(1)'—	6
	<i>omit, insert—</i>	7
	139C(1)	8
Clause 200	Omission of s 139E (Immediate withdrawal of approval and direction to terminate relevant agreement)	9 10
	Section 139E—	11
	<i>omit.</i>	12
Clause 201	Amendment of s 139F (Requirement to terminate relevant agreement on withdrawal of approval)	13 14
	Section 139F(1), 'or 139E'—	15
	<i>omit.</i>	16
Clause 202	Amendment of s 142R (Deciding application)	17
	(1) Section 142R(2), 'not a disqualified person mentioned in section 228B(1) and is'—	18 19
	<i>omit.</i>	20
	(2) Section 142R(3)—	21
	<i>insert—</i>	22
	(d) whether the applicant has been convicted of a prescribed offence;	23 24
	(e) if the applicant is, or has been, the subject of a control order or registered corresponding control order—the terms of the order.	25 26 27

[s 203]

-
- (3) Section 142R— 1
insert— 2
 (3A) However, the commissioner may not have regard 3
 to criminal intelligence in deciding whether a 4
 person is a suitable person to hold the approval. 5
- (4) Section 142R(4), ‘history.’— 6
omit, insert— 7
 history, including whether the person is, or has 8
 been, the subject of a control order or registered 9
 corresponding control order. 10
- (5) Section 142R(5)— 11
omit, insert— 12
 (5) A report under subsection (4) must— 13
 (a) include reference to or disclosure of 14
 convictions of the applicant mentioned in 15
 the *Criminal Law (Rehabilitation of 16*
Offenders) Act 1986, section 6; and 17
 (b) if the applicant is, or has been, the subject of 18
 a control order or registered corresponding 19
 control order— 20
 (i) state the details of the order; or 21
 (ii) be accompanied by a copy of the order. 22

Clause 203 Omission of s 142ZAA (Immediate 23
cancellation—identified participants) 24
 Section 142ZAA— 25
omit. 26

Clause 204 Amendment of s 142ZK (Deciding application) 27
 (1) Section 142ZK(2), ‘not a disqualified person mentioned in 28
 section 228B(1) and is’— 29

-
- omit.* 1
- (2) Section 142ZK(3)(b)— 2
- insert—* 3
- (iii) a prescribed offence; 4
- (3) Section 142ZK(3)— 5
- insert—* 6
- (g) if the applicant is, or has been, the subject of 7
a control order or registered corresponding 8
control order—the terms of the order. 9
- (4) Section 142ZK— 10
- insert—* 11
- (3A) However, the commissioner may not have regard 12
to criminal intelligence in deciding whether a 13
person is a suitable person to hold the approval. 14

- Clause 205 Amendment of s 142ZO (Police commissioner’s 15
information report) 16**
- (1) Section 142ZO(3)(a)— 17
- omit, insert—* 18
- (a) make inquiries about the person’s criminal 19
history, including whether the person is, or 20
has been, the subject of a control order or 21
registered corresponding control order; 22
- (2) Section 142ZO(5)(a)— 23
- omit, insert—* 24
- (a) must— 25
- (i) include reference to or disclosure of 26
convictions of the person mentioned in 27
the *Criminal Law (Rehabilitation of 28
Offenders) Act 1986*, section 6; and 29

[s 206]

	(ii) if the person is, or has been, the subject of a control order or registered corresponding control order—	1 2 3
	(i) state the details of the order; or	4
	(ii) be accompanied by a copy of the order; and	5 6
Clause 206	Amendment of s 142ZQ (Grounds for suspension or cancellation)	7 8
	(1) Section 142ZQ(b)—	9
	<i>insert—</i>	10
	(iii) a prescribed offence; or	11
	(2) Section 142ZQ—	12
	<i>insert—</i>	13
	(2) For subsection (1)(d), the commissioner may have regard to the matters mentioned in section 142ZK to which the commissioner may have regard in deciding whether an applicant is a suitable person to hold the approval.	14 15 16 17 18
Clause 207	Omission of s 142ZQA (Immediate cancellation of approval—identified participants)	19 20
	Section 142ZQA—	21
	<i>omit.</i>	22
Clause 208	Amendment of pt 6, div 5, hdg (Prohibited items for declared criminal organisations)	23 24
	Part 6, division 5, heading, ‘declared criminal’—	25
	<i>omit, insert—</i>	26
	identified	27

Clause 209	Amendment of s 173EA (Definitions for div 5)	1
(1)	Section 173EA, definition <i>declared criminal organisation</i> —	2
	<i>omit.</i>	3
(2)	Section 173EA—	4
	<i>insert—</i>	5
	<i>identified organisation</i> means an entity declared	6
	to be an identified organisation under section	7
	173EAA.	8
	<i>prohibited person</i> means a person who is wearing	9
	or carrying a prohibited item.	10
(3)	Section 173EA, definition <i>prohibited item</i> , ‘a declared	11
	criminal’—	12
	<i>omit, insert—</i>	13
	an identified	14
Clause 210	Insertion of new s 173EAA	15
	Part 6, division 5, after section 173EA—	16
	<i>insert—</i>	17
	173EAA Identified organisations	18
(1)	A regulation may declare an entity to be an	19
	identified organisation.	20
(2)	The Minister may recommend the making of a	21
	regulation under subsection (1) about an entity	22
	only if the Minister is satisfied the wearing or	23
	carrying of a proposed prohibited item by a	24
	person in a public place—	25
(a)	may cause members of the public to feel	26
	threatened, fearful or intimidated; or	27
(b)	may otherwise have an undue adverse effect	28
	on the health or safety of members of the	29
	public, or the amenity of the community,	30

[s 210]

- including by increasing the likelihood of
public disorder or acts of violence.
- (3) Also, if the Minister is not the Attorney-General,
the Minister may recommend the making of a
regulation under subsection (1) only with the
Attorney-General's agreement.
- (4) Without limiting subsection (2), for forming a
satisfaction mentioned in subsection (2), the
Minister must have regard to whether any person
has engaged in serious criminal activity, or
committed a relevant offence of which the person
has been convicted, while the person was a
participant in the entity.
- (5) In this section—
participant, in an entity, means a person—
- (a) who—
- (i) has been accepted as a member of the
entity, whether informally or through a
process set by the entity; and
Example of a process set by an entity—
paying a fee or levy
- (ii) has not ceased to be a member of the
entity; or
- (b) who is an honorary member of the entity; or
- (c) who is a prospective member of the entity;
or
- (d) who is an office holder of the entity; or
- (e) who identifies himself or herself in any way
as belonging to the entity; or
- (f) whose conduct in relation to the entity
would reasonably lead someone else to
consider the person to be a participant in the
entity.

[s 211]

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

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

relevant offence means an offence involving—

- (a) a public act of violence to a person; or
- (b) a public act of damage to property; or
- (c) disorderly, offensive, threatening or violent
behaviour in public.

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

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

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

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

(3) Section 173EB—
insert—

- (2) A person mentioned in subsection (1)(a), (b) or (c)
does not commit an offence against subsection (1)
if—
 - (a) the person had taken reasonable steps or
action to—

[s 212]

	(i) refuse the prohibited person entry to the premises; or	1 2
	(ii) exclude or remove the prohibited person from the premises; or	3 4
	(b) at the time of the offence, the person reasonably believed—	5 6
	(i) the person’s safety would have been endangered if the person had—	7 8
	(A) refused the prohibited person entry to the premises; or	9 10
	(B) excluded or removed the prohibited person from the premises; or	11 12 13
	(ii) it was not otherwise safe or practical for the person to—	14 15
	(A) refuse the prohibited person entry to the premises; or	16 17
	(B) exclude or remove the prohibited person from the premises.	18 19
Clause 212	Omission of s 173EC (Entering and remaining in licensed premises wearing or carrying a prohibited item)	20 21
	Section 173EC—	22
	<i>omit.</i>	23
Clause 213	Amendment of s 173ED (Removal of person wearing or carrying prohibited item from premises)	24 25
	(1) Section 173ED, heading, ‘person wearing or carrying prohibited item’—	26 27
	<i>omit, insert—</i>	28
	prohibited person	29

[s 214]

- (2) Section 173ED(1), ‘person who is wearing or carrying a prohibited item (the *prohibited person*)’— 1
2
omit, insert— 3
prohibited person 4
(3) Section 173ED(1) and (3), penalty provision— 5
omit, insert— 6
Maximum penalty—100 penalty units. 7

- Clause 214 Amendment of s 173EQ (Approval of persons to operate ID scanning systems)** 8
9
Section 173EQ(5)— 10
omit, insert— 11
(5) Without limiting the matters to which the 12
commissioner may have regard in deciding 13
whether an individual is a suitable person to 14
operate an approved ID scanning system— 15
(a) the commissioner must have regard to— 16
(i) whether the individual has been 17
convicted of a prescribed offence; and 18
(ii) if the individual is, or has been, the 19
subject of a control order or registered 20
corresponding control order—the 21
terms of the order; and 22
(b) the commissioner may obtain a report from 23
the police commissioner about the 24
individual’s criminal history, including 25
whether the individual is, or has been, the 26
subject of a control order or registered 27
corresponding control order. 28
Examples of matters to which the commissioner may have 29
regard— 30
• whether the applicant has the skill, knowledge and 31
experience required for operating an approved ID 32
scanning system 33

[s 215]

	<ul style="list-style-type: none">• whether the applicant demonstrates the ability to comply with the applicant’s statutory obligations relating to privacy	1 2 3
	(5A) However, the commissioner may not have regard to criminal intelligence in deciding whether an individual is a suitable person to operate an approved ID scanning system.	4 5 6 7
	(5B) A report under subsection (5)(b) must—	8
	(a) include reference to or disclosure of convictions of the individual mentioned in the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , section 6; and	9 10 11 12
	(b) if the individual is, or has been, the subject of a control order or registered corresponding control order—	13 14 15
	(i) state the details of the order; or	16
	(ii) be accompanied by a copy of the order.	17
Clause 215	Omission of s 228B (Disqualification from holding licence, permit or approval—identified participants and criminal organisations)	18 19 20
	Section 228B—	21
	<i>omit.</i>	22
Clause 216	Insertion of new pt 12, div 18	23
	Part 12—	24
	<i>insert—</i>	25
	Division 18	26
	Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	27 28 29

342 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the commissioner had not finally decided an application for the grant or renewal of an authority. 1
- (2) The commissioner must decide the application under this Act as in force after the commencement. 2
- (3) In this section— 3
- authority* means— 4
- (a) a licence; or 5
- (b) a permit; or 6
- (c) an approval for an approved manager; or 7
- (d) an approval for a controller; or 8
- (e) an approval mentioned in— 9
- (i) section 153(1) or (3); or 10
- (ii) section 173EQ(1); or 11
- (f) an authority mentioned in section 131A(2). 12

343 Show cause process not finally decided

- (1) This section applies if— 13
- (a) the commissioner had given a show cause notice to a person; and 14
- (b) immediately before the commencement, the commissioner had not finally dealt with the matters relating to the show cause notice (the *show cause process*). 15
- (2) The show cause process must continue under this Act as in force after the commencement. 16
- (3) In this section— 17
- show cause notice* means a written notice 18

[s 216]

mentioned in section 134B(1), 137(1), 139C(2),
142ZB(1), 142ZS(2) or 173ER(3). 1
2

344 Proceedings not finally decided 3

- (1) This section applies if immediately before the
commencement the following proceedings had
been started but not finally dealt with— 4
5
6
 - (a) a proceeding before the tribunal for a review
of a decision mentioned in repealed section
36(1); 7
8
9
 - (b) a proceeding before the Supreme Court
about a decision mentioned in repealed
section 36(1). 10
11
12
- (2) The proceeding is discontinued and the matter is
remitted to the commissioner for the
commissioner to decide again under this Act as in
force after the commencement. 13
14
15
16
- (3) The tribunal or Supreme Court must return to the
police commissioner any criminal intelligence
relating to the proceeding in the tribunal's or
Supreme Court's possession or control. 17
18
19
20
- (4) For subsection (1), a proceeding had not been
finally dealt with if— 21
22
 - (a) the tribunal or Supreme Court had not made
a decision; or 23
24
 - (b) the tribunal or Supreme Court had made a
decision but the appeal period for the
decision had not ended; or 25
26
27
 - (c) the tribunal or Supreme Court had made a
decision and an appeal against the decision
had been started but not ended. 28
29
30
- (5) In this section— 31
criminal intelligence means criminal intelligence 32
within the meaning of repealed section 37(5). 33

[s 217]

repealed, in relation to a provision of this Act, 1
means the provision as in force immediately 2
before the commencement. 3

**345 First regulation under s 173EAA(1) exempt 4
from particular requirements 5**

Section 173EAA(2) to (4) does not apply to the 6
making of the first regulation under section 7
173EAA(1). 8

**Part 15 9
Amendment of Liquor 10
Regulation 2002**

Clause 217 Regulation amended 11
This part amends the *Liquor Regulation 2002*. 12

Clause 218 Insertion of new pt 1C 13
After section 3F— 14
insert— 15

**Part 1C 16
Identified organisations**

3G Entities declared to be identified organisations 17

- (1) For section 173EAA(1) of the Act, the following 18
entities are declared to be identified 19
organisations— 20
- the motorcycle club known as the Bandidos 21
 - the motorcycle club known as the Black 22
Uhlans 23
 - the motorcycle club known as the Coffin 24
Cheaters 25

[s 218]

- the motorcycle club known as the Comancheros 1
2
 - the motorcycle club known as the Finks 3
 - the motorcycle club known as the Fourth Reich 4
5
 - the motorcycle club known as the Gladiators 6
 - the motorcycle club known as the Gypsy Jokers 7
8
 - the motorcycle club known as the Hells Angels 9
10
 - the motorcycle club known as the Highway 61 11
12
 - the motorcycle club known as the Iron Horsemen 13
14
 - the motorcycle club known as the Life and Death 15
16
 - the motorcycle club known as the Lone Wolf 17
18
 - the motorcycle club known as the Mobshitters 19
20
 - the motorcycle club known as the Mongols 21
 - the motorcycle club known as the Muslim Brotherhood Movement 22
23
 - the motorcycle club known as the Nomads 24
 - the motorcycle club known as the Notorious 25
 - the motorcycle club known as the Odins Warriors 26
27
 - the motorcycle club known as the Outcasts 28
 - the motorcycle club known as the Outlaws 29
 - the motorcycle club known as the Phoenix 30
 - the motorcycle club known as the Rebels 31
-

[s 219]

- the motorcycle club known as the Red Devils 1
2
 - the motorcycle club known as the Renegades 3
4
 - the motorcycle club known as the Scorpions 5
- (2) Despite the *Acts Interpretation Act 1954*, section 6
35, a reference to an entity in subsection (1) 7
includes all state, national and international 8
chapters of the entity. 9

Part 16 Amendment of Motor Dealers and Chattel Auctioneers Act 2014 10 11 12

Clause 219 Act amended 13

This part amends the *Motor Dealers and Chattel Auctioneers Act 2014*. 14
15

Note— 16

See also the amendments in schedule 1. 17

Clause 220 Amendment of s 19 (Particular persons can not make application) 18
19

Section 19(5), definition *disqualified person—* 20

omit, insert— 21

disqualified person means a person who is— 22

(a) disqualified from holding a licence as a 23
consequence of an order made by QCAT 24
under section 199 or by a court under 25
section 229; or 26

(b) subject to a relevant control order. 27

[s 221]

Clause 221	Amendment of s 21 (Suitability of applicants and licensees—individuals)	1 2
	Section 21(1)(e)—	3
	<i>omit, insert—</i>	4
	(e) is subject to a relevant control order.	5
Clause 222	Amendment of s 22 (Suitability of applicants and licensees—corporations)	6 7
	(1) Section 22(1)—	8
	<i>insert—</i>	9
	(d) is subject to a relevant control order.	10
	(2) Section 22(2)(e)—	11
	<i>omit, insert—</i>	12
	(e) the executive officer is subject to a relevant control order.	13 14
Clause 223	Amendment of s 23 (Chief executive must consider suitability of applicants and licensees)	15 16
	(1) Section 23(1)(h)(iv)—	17
	<i>omit, insert—</i>	18
	(iv) whether the individual is subject to a relevant control order; and	19 20
	(2) Section 23(1)(i)(ii)—	21
	<i>omit, insert—</i>	22
	(ii) whether the corporation, or an executive officer of the corporation, is subject to a relevant control order; and	23 24 25
	(3) Section 23—	26
	<i>insert—</i>	27
	(1A) However, the chief executive, when deciding	28

[s 224]

	whether a person is a suitable person to hold a	1
	licence, may not have regard to criminal	2
	intelligence given by the commissioner to the	3
	chief executive under section 230A.	4
(4)	Section 23(3)—	5
	<i>omit.</i>	6
(5)	Section 23(1A) and (2)—	7
	<i>renumber</i> as section 23(2) and (3).	8
Clause 224	Amendment of s 26 (Investigations about suitability of	9
	applicants, nominated persons and licensees)	10
	Section 26—	11
	<i>insert—</i>	12
	(6) If the person is, or has been, subject to a control	13
	order or registered corresponding control order,	14
	the report must—	15
	(a) state the details of the order; or	16
	(b) be accompanied by a copy of the order.	17
Clause 225	Amendment of s 27 (Notice of change in criminal history)	18
	Section 27(3)—	19
	<i>omit, insert—</i>	20
	(3) The notice must—	21
	(a) state the following details—	22
	(i) the person's name and any other name	23
	the commissioner believes the person	24
	may use or may have used;	25
	(ii) the person's date and place of birth;	26
	(iii) a brief description of the nature of the	27
	offence giving rise to the conviction or	28
	charge to which the change relates; and	29

[s 226]

	(b) if the change includes the person becoming subject to a control order or registered corresponding control order—	1 2 3
	(i) state the details of the order; or	4
	(ii) be accompanied by a copy of the order.	5
Clause 226	Amendment of s 29 (Use of information obtained under s 26 or s 27)	6 7
	Section 29(2)—	8
	<i>omit, insert—</i>	9
	(2) Information about the following may be used only for making a decision about whether a relevant person is, or continues to be, a suitable person to hold a licence—	10 11 12 13
	(a) a conviction of the relevant person or an associate of the relevant person;	14 15
	(b) if the relevant person, or an associate of the relevant person, is subject to a control order or registered corresponding control order—the control order.	16 17 18 19
Clause 227	Omission of ss 30 and 31	20
	Sections 30 and 31—	21
	<i>omit.</i>	22
Clause 228	Amendment of s 36 (Chief executive may issue or refuse to issue licence)	23 24
	Section 36(4)—	25
	<i>omit.</i>	26

Clause 229	Amendment of s 44 (Chief executive may renew or refuse to renew licence)	1 2
	Section 44(4)—	3
	<i>omit.</i>	4
Clause 230	Amendment of s 48 (Chief executive may restore or refuse to restore licence)	5 6
	(1) Section 48(4)—	7
	<i>omit.</i>	8
	(2) Section 48(5)—	9
	<i>renumber</i> as section 48(4).	10
Clause 231	Amendment of s 53 (Chief executive may appoint or refuse to appoint substitute licensee)	11 12
	Section 53(6)—	13
	<i>omit.</i>	14
Clause 232	Amendment of s 58 (Return of licence for suspension or cancellation)	15 16
	Section 58(2), ‘section 61(6), 62(2) or 63(5)’—	17
	<i>omit, insert—</i>	18
	section 61(6) or 62(2)	19
Clause 233	Amendment of s 62 (Immediate cancellation)	20
	Section 62(1)—	21
	<i>insert—</i>	22
	(d) 1 or more of the following persons becoming subject to a relevant control order—	23 24 25
	(i) the licensee;	26

[s 234]

	(ii) if the licensee is a corporation—an executive officer of the corporation.	1 2
Clause 234	Omission of s 63 (Cancellation of motor dealer licence—identified participant)	3 4
	Section 63—	5
	<i>omit.</i>	6
Clause 235	Amendment of s 69 (Licensees to notify chief executive of changes in circumstances)	7 8
	Section 69(1), before ‘written’—	9
	<i>insert—</i>	10
	oral or	11
Clause 236	Amendment of s 155 (Particular persons can not make application)	12 13
	Section 155(3), definition <i>disqualified person</i> —	14
	<i>omit, insert—</i>	15
	<i>disqualified person</i> means a person who is—	16
	(a) disqualified from holding a registration certificate as a consequence of an order made by QCAT under section 199 or by a court under section 229; or	17 18 19 20
	(b) subject to a relevant control order.	21
Clause 237	Amendment of s 157 (Suitability of applicants)	22
	Section 157(1)(d)—	23
	<i>omit, insert—</i>	24
	(d) subject to a relevant control order.	25

Clause 238	Amendment of s 158 (Chief executive must consider suitability of applicants)	1
		2
(1)	Section 158(1)(i)—	3
	<i>omit, insert—</i>	4
	(i) whether the person is subject to a relevant control order;	5
		6
(2)	Section 158—	7
	<i>insert—</i>	8
	(1A) However, the chief executive, when deciding whether a person is a suitable person to hold a registration certificate, may not have regard to criminal intelligence given by the commissioner to the chief executive under section 230A.	9
		10
		11
		12
		13
(3)	Section 158(3)—	14
	<i>omit.</i>	15
(4)	Section 158(1A) and (2)—	16
	<i>renumber</i> as section 158(2) and (3).	17
Clause 239	Amendment of s 159 (Investigations about suitability of applicants)	18
		19
	Section 159—	20
	<i>insert—</i>	21
	(6) If the person is, or has been, subject to a control order or registered corresponding control order, the report must—	22
		23
		24
	(a) state the details of the order; or	25
	(b) be accompanied by a copy of the order.	26
Clause 240	Amendment of s 160 (Notice of change in criminal history)	27
		28
	Section 160(3)—	29

[s 241]

- omit, insert—* 1
- (3) The notice must— 2
- (a) state the following details— 3
- (i) the person’s name and any other name 4
the commissioner believes the person 5
may use or may have used; 6
- (ii) the person’s date and place of birth; 7
- (iii) a brief description of the nature of the 8
offence giving rise to the conviction or 9
charge to which the change relates; and 10
- (b) if the change includes the person becoming 11
subject to a control order or registered 12
corresponding control order— 13
- (i) state the details of the order; or 14
- (ii) be accompanied by a copy of the order. 15

- Clause 241 Amendment of s 162 (Use of information obtained under s 159 or s 160)** 16
17
- Section 162(2)— 18
- omit, insert—* 19
- (2) Information about the following may be used only 20
for making a decision about whether an applicant 21
or motor salesperson is, or continues to be, a 22
suitable person to hold a registration certificate— 23
- (a) a conviction of the person; 24
- (b) if the person is subject to a control order or 25
registered corresponding control order—the 26
control order. 27

- Clause 242 Omission of ss 163 and 164** 28
- Sections 163 and 164— 29

omit.

1

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

2

3

Section 166(4)—

4

omit.

5

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

6

7

Section 169(4)—

8

omit.

9

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

10

11

(1) Section 172(4)—

12

omit.

13

(2) Section 172(5)—

14

renumber as section 172(4).

15

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

16

17

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

18

omit, insert—

19

section 180(5) or 181(2)

20

Clause 247 Amendment of s 181 (Immediate cancellation)

21

(1) Section 181(1)—

22

omit, insert—

23

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

24

25

[s 248]

	(a) is convicted of a serious offence; or	1
	(b) becomes subject to a relevant control order.	2
(2)	Section 181(2), ‘conviction’—	3
	<i>omit, insert—</i>	4
	happening of an event mentioned in subsection	5
	(1)	6
Clause 248	Omission of s 182 (Cancellation—identified participant)	7
	Section 182—	8
	<i>omit.</i>	9
Clause 249	Amendment of s 188 (Motor salespersons to notify chief executive of changes in circumstances)	10
	Section 188(1), before ‘written’—	11
	<i>insert—</i>	12
	oral or	13
Clause 250	Omission of pt 7, div 2	14
	Part 7, division 2—	15
	<i>omit.</i>	16
Clause 251	Insertion of new ss 230A and 230B	17
	Part 10—	18
	<i>insert—</i>	19
	230A Exchange of information	20
	(1) The chief executive may enter into an	21
	arrangement (an <i>information-sharing</i>	22
	<i>arrangement</i>) with a relevant agency for the	23
	purposes of sharing or exchanging information—	24
		25

[s 251]

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

relevant agency means the following—

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

230B Confidentiality

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act.

[s 251]

- | | | |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| (2) | The person must not make a record of the information or disclose the information to another person, other than under subsection (4). | 1
2
3 |
| | Maximum penalty—35 penalty units. | 4 |
| (3) | Without limiting subsection (1), a person gains confidential information through involvement in the administration of this Act if the person gains the information because of being, or an opportunity given by being— | 5
6
7
8
9 |
| | (a) the chief executive; or | 10 |
| | (b) a public service employee employed in the department; or | 11
12 |
| | (c) a person engaged by the chief executive for this Act. | 13
14 |
| (4) | A person may make a record of confidential information or disclose it to another person— | 15
16 |
| | (a) for this Act; or | 17 |
| | (b) to discharge a function under another law; or | 18
19 |
| | (c) for a proceeding in a court or QCAT; or | 20 |
| | (d) if authorised by a court or QCAT in the interests of justice; or | 21
22 |
| | (e) if required or permitted by law; or | 23 |
| | (f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates. | 24
25
26
27 |
| (5) | The chief executive must destroy the following as soon as practicable after it is no longer needed for the purpose for which it was requested or given— | 28
29
30 |
| | (a) a criminal history report about a person; | 31 |

	(b) a copy of a control order or registered corresponding control order accompanying a criminal history report about a person;	1 2 3
	(c) a notice given under section 27(2) or 160(2) about a person.	4 5
	(6) The <i>Public Records Act 2002</i> does not apply to the documents mentioned in subsection (5).	6 7
	(7) In this section— <i>confidential information</i> —	8 9
	(a) includes information about a person's affairs; but	10 11
	(b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.	12 13 14 15
Clause 252	Insertion of new pt 11, div 1, hdg	16
	Part 11, before section 237—	17
	<i>insert</i> —	18
	Division 1	19
	Transitional provisions for repeal of PAMDA	20
Clause 253	Insertion of new pt 11, div 2	21
	Part 11—	22
	<i>insert</i> —	23
	Division 2	24
	Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	25 26 27

[s 253]

238 Definitions for division	1
In this division—	2
<i>repealed</i> , in relation to a provision of this Act,	3
means the provision as in force immediately	4
before the commencement.	5
 239 Applications not finally decided	6
(1) This section applies if, immediately before the	7
commencement, the chief executive had not	8
finally decided an application for—	9
(a) the issue, renewal or restoration of a licence	10
or registration certificate; or	11
(b) the appointment, or the extension of the	12
appointment, of an adult as the licensee’s	13
substitute licensee.	14
(2) The chief executive must decide the application	15
under this Act as in force after the	16
commencement.	17
 240 Proceedings not finally decided	18
(1) This section applies if immediately before the	19
commencement the following proceedings had	20
been started but not finally dealt with—	21
(a) a disciplinary proceeding under section 195	22
against a licensee or motor salesperson;	23
(b) a proceeding before QCAT for a review of a	24
decision mentioned in repealed section	25
202(1);	26
(c) a proceeding before the Supreme Court	27
about a decision mentioned in repealed	28
section 202(1).	29
(2) For a proceeding mentioned in subsection (1)(a),	30
QCAT must decide the proceeding under this Act	31

as in force after the commencement.	1
(3) For a proceeding mentioned in subsection (1)(b) or (c)—	2 3
(a) the proceeding is discontinued; and	4
(b) the matter is remitted to the chief executive for the chief executive to decide again under this Act as in force after the commencement.	5 6 7 8
(4) QCAT or the Supreme Court must return to the commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.	9 10 11 12
(5) For subsection (1), a proceeding had not been finally dealt with if—	13 14
(a) QCAT or the Supreme Court had not made a decision; or	15 16
(b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or	17 18 19
(c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.	20 21 22
(6) In this section—	23
<i>criminal intelligence</i> means criminal intelligence within the meaning of repealed section 202(6).	24 25
241 Reapplying for licences and registration certificates	26 27
(1) Subsection (2) applies if, before the commencement, 1 of the following decisions was made only because of advice given by the commissioner to the chief executive under repealed section 30(3) or 163(2)—	28 29 30 31 32
(a) a decision to refuse to issue a licence;	33

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	(b) a decision to refuse to issue a registration certificate.	1 2
	(2) The decision is taken not to be a decision to refuse to issue the licence or registration certificate for section 19(3) or 155(2).	3 4 5
	(3) Subsection (4) applies if a licence held by a corporation was, before the commencement, cancelled only because of advice given by the commissioner to the chief executive under repealed section 30(3).	6 7 8 9 10
	(4) Despite section 19(2), the corporation may make an application for a licence.	11 12
Clause 254	Amendment of sch 2 (Decisions subject to review)	13
	(1) Schedule 2, ‘section 23(2)’—	14
	<i>omit, insert—</i>	15
	section 23(3)	16
	(2) Schedule 2, entries for section 63(1) and section 182(1)—	17
	<i>omit.</i>	18
	(3) Schedule 2, ‘section 158(2)’—	19
	<i>omit, insert—</i>	20
	section 158(3)	21
Clause 255	Amendment of sch 3 (Dictionary)	22
	(1) Schedule 3, definitions <i>criminal organisation</i> , <i>identified participant</i> and <i>serious offence</i> —	23 24
	<i>omit.</i>	25
	(2) Schedule 3—	26
	<i>insert—</i>	27
	<i>control order</i> see the <i>Penalties and Sentences Act 1992</i> , section 161N.	28 29

<i>criminal intelligence</i> see the Criminal Code,	1
section 86(3).	2
<i>registered corresponding control order</i> see the	3
<i>Penalties and Sentences Act 1992</i> , section 161N.	4
<i>relevant control order</i> , in relation to a licence or	5
registration certificate, means a control order or	6
registered corresponding control order that	7
restricts the person to whom the order applies	8
from carrying on a business, engaging in an	9
occupation or performing an activity that requires	10
the licence or registration certificate.	11
<i>serious offence</i> means—	12
(a) any of the following offences punishable by	13
3 or more years imprisonment—	14
(i) an offence involving fraud or	15
dishonesty;	16
(ii) an offence involving the trafficking of	17
drugs;	18
(iii) an offence involving the use or	19
threatened use of violence;	20
(iv) an offence of a sexual nature;	21
(v) extortion;	22
(vi) arson;	23
(vii) unlawful stalking; or	24
(b) an offence against the Criminal Code,	25
section 76; or	26
(c) an offence mentioned in the Criminal Code,	27
part 2, chapter 9A; or	28
(d) an offence that is—	29
(i) a prescribed offence within the	30
meaning of the <i>Penalties and Sentences</i>	31
<i>Act 1992</i> , section 161N; and	32

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(ii) committed with a serious organised	1
crime circumstance of aggravation	2
within the meaning of the <i>Penalties</i>	3
<i>and Sentences Act 1992</i> , section 161Q.	4

Part 17	Amendment of Peace and Good	5
	Behaviour Act 1982	6

Clause 256	Act amended	7
	This part amends the <i>Peace and Good Behaviour Act 1982</i> .	8

Clause 257	Insertion of new ss 3 and 3A	9
	Part 1—	10
	<i>insert</i> —	11
	3 Definitions	12
	The dictionary in schedule 1 defines particular	13
	words used in this Act.	14

3A Objects of Act	15
(1) The main object of this Act is to protect the safety,	16
welfare, security, and peace and good order of the	17
community from risks presented by people	18
engaging in antisocial, disorderly or criminal	19
conduct.	20
(2) Other objects of this Act are to—	21
(a) disrupt and restrict the activities of	22
criminals; and	23
(b) deter criminals from establishing,	24
maintaining or expanding a criminal	25
network; and	26
(c) ensure premises in which criminals	27
habitually gather are unable to be used for	28

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- | | |
|---------------------------------------------------|----|
| antisocial, disorderly or criminal conduct; | 1 |
| and | 2 |
| (d) ensure premises habitually used by | 3 |
| criminals, or connected with serious | 4 |
| criminal activity, do not become excessively | 5 |
| fortified; and | 6 |
| (e) prevent intimidation of the public by | 7 |
| criminals; and | 8 |
| (f) protect the community's enjoyment of safe | 9 |
| and secure neighbourhood environments | 10 |
| and public spaces. | 11 |
| (3) The objects are achieved by— | 12 |
| (a) giving jurisdiction to magistrates to make | 13 |
| orders that— | 14 |
| (i) require a person to keep the peace and | 15 |
| be of good behaviour; or | 16 |
| (ii) prevent a person, or group of persons, | 17 |
| from doing particular things in relation | 18 |
| to a particular area or event, or | 19 |
| particular premises; or | 20 |
| (iii) prevent disorderly activities from | 21 |
| taking place at particular premises; or | 22 |
| (iv) require the removal of excessive | 23 |
| fortifications from particular premises; | 24 |
| and | 25 |
| (b) giving power to commissioned officers to | 26 |
| make orders, of a duration of no more than 7 | 27 |
| days, to prevent a person, or group of | 28 |
| persons, from doing particular things in | 29 |
| relation to a particular area or event, or | 30 |
| particular premises; and | 31 |
| (c) giving powers to the police service to ensure | 32 |
| the effectiveness of the orders mentioned in | 33 |
| paragraphs (a) and (b). | 34 |
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	(4)	It is not the Parliament’s intention that powers under this Act be exercised in a way that diminishes the freedom of persons in the State to participate in advocacy, protest, dissent or industrial action.	1 2 3 4 5
	(5)	In this section— <i>criminal</i> means—	6 7
	(a)	a recognised offender; or	8
	(b)	an associate of a recognised offender; or	9
	(c)	a participant in a criminal organisation; or	10
	(d)	a person subject to a control order.	11
Clause 258		Replacement of pt 2, hdg (Orders to keep the peace and be of good behaviour)	12 13
		Part 2, heading—	14
		<i>omit, insert—</i>	15
		Part 2 Peace and good behaviour orders	16 17
		Division 1 Making of orders	18
Clause 259		Amendment of s 4 (Complaint in respect of breach of peace)	19 20
		Section 4(2A) and (3), ‘Magistrates Court’—	21
		<i>omit, insert—</i>	22
		court	23
Clause 260		Amendment of s 6 (Magistrates Court may make order)	24
	(1)	Section 6(1), ‘Magistrates Court’—	25

<i>omit, insert—</i>	1
court	2
(2) Section 6(3) and (4), ‘the Court’—	3
<i>omit, insert—</i>	4
the court	5

Clause 261	Amendment of s 7 (Where defendant does not appear)	6
(1)	Section 7(1), ‘Magistrates Court’—	7
	<i>omit, insert—</i>	8
	court	9
(2)	Section 7, ‘the Court’—	10
	<i>omit, insert—</i>	11
	the court	12
(3)	Section 7(1)(b), ‘section 6’—	13
	<i>omit, insert—</i>	14
	section 7	15

Clause 262	Amendment of s 8 (Application of Justices Act)	16
	Section 8, ‘section 6’—	17
	<i>omit, insert—</i>	18
	section 7	19

Clause 263	Replacement of pt 3, hdg (Offence provisions)	20
	Part 3, heading—	21
	<i>omit, insert—</i>	22
	Division 2 Offences	23

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Clause	264	Amendment of s 10 (Offence for breach of order)	1
		Section 10(1), ‘section 6’—	2
		<i>omit, insert</i> —	3
		section 7	4
Clause	265	Amendment of s 11 (Court may make further order)	5
		(1) Section 11, ‘section 10’—	6
		<i>omit, insert</i> —	7
		section 11	8
		(2) Section 11, ‘Magistrates Court’—	9
		<i>omit, insert</i> —	10
		court	11
		(3) Section 11, ‘the Court’—	12
		<i>omit, insert</i> —	13
		the court	14
		(4) Section 11, ‘section 6’—	15
		<i>omit, insert</i> —	16
		section 7	17
Clause	266	Renumbering of ss 3A–12	18
		Sections 3A to 12—	19
		<i>renumber</i> as sections 4 to 13.	20
Clause	267	Replacement of pt 4 (Miscellaneous provisions)	21
		Part 4—	22
		<i>omit, insert</i> —	23
		Part 3	
		Public safety orders	24

Division 1	Preliminary	1
14	Definition for part	2
	In this part—	3
	<i>respondent</i> , to an application for a public safety order—	4
	(a) for division 2—see section 17(1) and (2); or	5
	(b) for division 3—see section 25(1) and (2).	6
15	Object of part	7
	The object of this part is to provide for—	8
	(a) public safety orders, of a duration of no more than 7 days, to be made by a commissioned officer; and	9
	(b) public safety orders, of a duration of no more than 6 months, to be made by a court.	10
16	Peaceful Assembly Act 1992 unaffected	11
	This part, or an order under this part, does not affect the <i>Peaceful Assembly Act 1992</i> .	12
Division 2	Making of orders by commissioned officers	13
17	Commissioned officer may make public safety order	14
	(1) A commissioned officer may make a public safety order for a person or a group of persons (the <i>respondent</i>) if the commissioned officer is satisfied—	15

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

-
- within the area—the public interest in 1
maintaining freedom to participate in those 2
activities; 3
 - (f) whether the degree of risk involved justifies 4
the imposition of the conditions to be stated 5
in the order, having regard, in particular, to 6
any legitimate reason the respondent may 7
have for being present at the premises or 8
event or within the area; 9
 - (g) the extent to which making the order will 10
reduce the risk to public safety or security or 11
effective traffic management; 12
 - (h) the extent to which making the order will 13
assist in achieving the objects of this Act. 14

18 Conditions 15

- (1) In making a public safety order for a respondent, 16
the commissioned officer may impose a condition 17
that prohibits the respondent from doing or 18
attempting to do any of the following while the 19
order is in force— 20
 - (a) entering or remaining at stated premises; 21
 - (b) attending or remaining at a stated event; 22
 - (c) entering or remaining in a stated area; 23
 - (d) doing a stated thing in a stated area. 24
- (2) A public safety order does not stop the respondent 25
from entering the respondent's principal place of 26
residence. 27

19 Particular orders must be authorised by court 28

- (1) Despite any other provision of this division, a 29
commissioned officer must not do any of the 30
following unless authorised by a court under this 31
section— 32

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- (a) make a public safety order for the same respondent in relation to the same stated premises, stated event or stated area more than 3 times in a period of 6 months;
 - (b) make a public safety order for a respondent that takes effect immediately after the end of a previous public safety order for the respondent;
 - (c) make a public safety order for a respondent of a duration of no more than 72 hours if a public safety order under this division has been made for the respondent within the immediately preceding 7 days.
- (2) A commissioned officer may apply to a court for an order (an **authorisation order**) authorising the officer to make a public safety order of a type mentioned in subsection (1).
- (3) An authorisation order may be made by the court on an application made without notice to any person.
- (4) The grounds of an application for an authorisation order must be verified by affidavit.
- (5) An application to the court for an authorisation order may be made and dealt with by a magistrate by telephone as follows—
 - (a) the commissioned officer must inform the magistrate—
 - (i) of the officer's name and rank; and
 - (ii) that the officer is a commissioned officer;
 - (b) the magistrate must be satisfied the case is of sufficient urgency to justify dealing with the application without requiring the personal attendance of the commissioned officer, by the oral questioning of the

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- | | |
|------------------------------------------------------|----|
| commissioned officer and any other | 1 |
| available witnesses by telephone; | 2 |
| (c) if the magistrate is not satisfied it is | 3 |
| appropriate to deal with the application | 4 |
| without requiring the personal attendance of | 5 |
| the commissioned officer—the magistrate | 6 |
| may adjourn the hearing of the application | 7 |
| to a time and place fixed by the magistrate; | 8 |
| (d) if the magistrate is satisfied it is appropriate | 9 |
| to deal with the application without | 10 |
| requiring the personal attendance of the | 11 |
| commissioned officer—the officer must | 12 |
| inform the magistrate of the grounds on | 13 |
| which the officer proposes to make the | 14 |
| public safety order and the conditions the | 15 |
| officer proposes to include in the order; | 16 |
| (e) if the magistrate is satisfied it is appropriate | 17 |
| for the commissioned officer to make the | 18 |
| public safety order, the magistrate— | 19 |
| (i) must inform the officer of the facts that | 20 |
| justify, in the magistrate’s opinion, the | 21 |
| making of the public safety order; and | 22 |
| (ii) must not proceed to make the | 23 |
| authorisation order unless the officer | 24 |
| undertakes to make an affidavit | 25 |
| verifying those facts; | 26 |
| (f) if the commissioned officer gives an | 27 |
| undertaking mentioned in paragraph (e), the | 28 |
| magistrate may make the authorisation | 29 |
| order, noting on the order the facts that | 30 |
| justify, in the magistrate’s opinion, the | 31 |
| making of the public safety order; | 32 |
| (g) the commissioned officer must, as soon as | 33 |
| practicable after the making of the public | 34 |
| safety order, give the magistrate an affidavit | 35 |
| verifying the facts mentioned in paragraph | 36 |
| (e). | 37 |
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|---------------------------------------------------------|---|
| (6) For subsection (5)(a), the magistrate, on receiving | 1 |
| the information mentioned in that paragraph, may | 2 |
| assume, without further inquiry, that the | 3 |
| commissioned officer is authorised to make an | 4 |
| application under this section. | 5 |

20 Content of order 6

- | | |
|------------------------------------------------|----|
| A public safety order made under this division | 7 |
| must— | 8 |
| (a) be in the approved form; and | 9 |
| (b) state each of the following— | 10 |
| (i) the premises, event or area to which the | 11 |
| order applies; | 12 |
| (ii) the person, or group of persons, to | 13 |
| which the order applies; | 14 |
| (iii) each condition imposed under section | 15 |
| 18; | 16 |
| (iv) if the order applies to stated premises | 17 |
| or a stated area—the period, of not | 18 |
| more than 7 days, for which the order | 19 |
| remains in force; | 20 |
| (v) if the order applies to a stated event— | 21 |
| (A) the location of the event for the | 22 |
| purposes of the order; and | 23 |
| (B) if the event is held over | 24 |
| consecutive days—when the event | 25 |
| starts and ends for the purposes of | 26 |
| the order, provided the total | 27 |
| duration of the event is no more | 28 |
| than 7 days; and | 29 |
| (C) if the event is held over | 30 |
| non-consecutive days—when the | 31 |
| event starts and ends for the | 32 |
| purposes of the order for each day | 33 |

-
- of the event, provided the order is 1
for no more than 7 days of the 2
event; 3
- (vi) that a contravention of the order may 4
constitute an offence that carries a 5
maximum penalty of 300 penalty units 6
or 3 years imprisonment; 7
- (vii) that a failure to comply with a direction 8
given by a police officer under section 9
31 may constitute an offence that 10
carries a maximum penalty of 40 11
penalty units; 12
- (viii) that the respondent may appeal to a 13
Magistrates Court against the order if 14
the order is of a duration of more than 15
72 hours; 16
- (ix) that a notice of appeal must be filed 17
within 7 days after the order takes 18
effect. 19

21 Service of order 20

- (1) If a public safety order is made by a 21
commissioned officer, the commissioned officer 22
must ensure a copy of the order is served by 23
personal service on each person to whom the 24
order relates. 25
- (2) If the commissioned officer reasonably suspects a 26
person to whom the order applies is a person 27
under 18 years or has impaired intellectual 28
functioning, the commissioned officer must, if 29
practicable, ensure the order is also served by 30
personal service on a parent or guardian of the 31
person. 32
- (3) A public safety order is not binding on a person to 33
whom the order relates unless the order is served 34
under this section. 35

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- (4) If a public safety order is served on a person under this section, the order is binding on the person whether or not any other person to whom the order relates has been served. 1
2
3
4
- (5) Failure to comply with subsection (2) does not prevent an order from becoming binding when the order is served on a person. 5
6
7
- (6) In this section— 8
parent see the *Youth Justice Act 1992*, schedule 4. 9

22 Urgent orders 10

- (1) This section applies if a commissioned officer is satisfied a public safety order made under this division should become binding on a person as a matter of urgency. 11
12
13
14
- (2) Despite section 21, a police officer may— 15
 - (a) communicate the contents of the order verbally to any person to whom the order relates; and 16
17
18
 - (b) advise the person to whom the contents of the order are communicated under paragraph (a)— 19
20
21
 - (i) of a place at which the person may obtain a written copy of the order on the next business day; and 22
23
24
 - (ii) that the order will be published on the QPS website on the next business day. 25
26
- (3) If practicable, a communication under subsection (2) must be electronically recorded. 27
28
- (4) The order is binding on a person immediately after a police officer has communicated the information mentioned in subsection (2) to the person. 29
30
31
32
- (5) The police officer must ensure a written copy of 33

- the order is— 1
- (a) available for collection by a person to whom 2
the contents of the order are communicated 3
under subsection (2)(a), at the place 4
mentioned in subsection (2)(b), during 5
ordinary business hours, on the next 6
business day; and 7
 - (b) published on the QPS website on the next 8
business day. 9
- (6) In this section— 10
- electronically recorded* means audio recorded or 11
video recorded. 12
- next business day* means the next business day 13
after the day on which the officer communicates 14
the information mentioned in subsection (2) to the 15
person. 16

23 Duration 17

- (1) A public safety order made by a commissioned 18
officer takes effect— 19
 - (a) for an urgent order—under section 22(4); 20
 - (b) otherwise—when a police officer serves the 21
order, under section 21, on the person to 22
whom the order relates. 23
- (2) The public safety order remains in force until the 24
earlier of the following— 25
 - (a) the day the order is revoked; 26

Note— 27

See the *Acts Interpretation Act 1954*, section 28
24AA for the power of the commissioned officer 29
to revoke the order. 30

 - (b) if the order applies to a stated event and the 31
event is cancelled—the day the event is 32
cancelled; 33

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(c) otherwise—the day stated in the order. 1

24 Records to be kept 2

(1) The commissioner must record in writing 3
particulars of each public safety order made by a 4
commissioned officer, including, for example, the 5
following— 6

(a) when and where the order was made; 7

(b) the reasons the order was made; 8

(c) the details of the respondent; 9

(d) the conditions of the order; 10

(e) the duration of the order; 11

(f) the name of the commissioned officer; 12

(g) whether the order was appealed against; 13

(h) if paragraph (g) applies—the outcome of the 14
appeal. 15

(2) The record must be made as soon as practicable 16
after the public safety order is made. 17

(3) The commissioner must keep in the records of the 18
police service each record the commissioner has 19
kept under this section. 20

(4) The commissioner must ensure the public interest 21
monitor has access to each record the 22
commissioner has kept under this section for the 23
purpose of performing the monitor's functions 24
under the *Police Powers and Responsibilities Act* 25
2000, chapter 21, part 5. 26

(5) In this section— 27

public interest monitor means the public interest 28
monitor appointed under the *Police Powers and* 29
Responsibilities Act 2000, section 740. 30

Division 3	Making of orders by court	1
25 Senior police officer may apply for public safety order		2 3
(1) A senior police officer may apply to a court for, or for the extension of, a public safety order under this division for a person or a group of persons (the <i>respondent</i>).		4 5 6 7
(2) A reference in this division to a respondent, if the respondent is a group of persons, is a reference to the members generally of the group.		8 9 10
(3) The application must state the following—		11
(a) details sufficient to identify the respondent;		12
(b) the grounds on which the order, or extension, is sought, being grounds mentioned in section 27 to the extent they are relevant to the application;		13 14 15 16
(c) the information supporting the grounds;		17
(d) details of any previous application for a public safety order for the respondent and the outcome of the application;		18 19 20
(e) that the respondent may file a response to the application under section 26.		21 22
(4) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.		23 24 25
(5) The application, with any accompanying affidavit, must—		26 27
(a) be filed; and		28
(b) on filing, state as the return date a day within 35 days after the filing; and		29 30
(c) after being filed, be served by a police officer on the respondent—		31 32

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- (i) by personal service within 7 business days after the filing; or 1
2
 - (ii) if personal service is not practicable or the respondent is a group of persons, by public notice within 10 days after the filing. 3
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- (6) An application for an extension of a public safety order may only be made within 2 months before the order ends. 7
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26 Response by respondent 10

- (1) The respondent may file a response to the application. 11
12
- (2) The response must state— 13
 - (a) the facts relied on by the respondent in response to the application; and 14
15
 - (b) the nature of the response in relation to each order sought by the senior police officer. 16
17
- (3) The respondent must file the response, and serve it on the senior police officer, at least 5 business days before the return date. 18
19
20
- (4) The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application. 21
22
23

27 Court may make public safety order 24

- (1) The court may make, or extend, a public safety order for the respondent if the court is satisfied— 25
26
 - (a) the presence of the respondent at premises or an event, or within an area, poses a serious risk to public safety or security; and 27
28
29
 - (b) making or extending the order is appropriate in the circumstances. 30
31

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- (2) In considering whether or not to make or extend the order, the court must have regard to the following—
- (a) the respondent's criminal history and any previous behaviour of the respondent that posed a serious risk to public safety or security;
 - (b) whether the respondent is or has been a participant in a criminal organisation or the subject of a control order;
 - (c) whether the respondent associates, or has associated with—
 - (i) a participant in a criminal organisation; or
 - (ii) a person who is the subject of a control order; or
 - (iii) a recognised offender; or
 - (iv) an associate of a recognised offender;
 - (d) if advocacy, protest, dissent or industrial action is the likely reason for the respondent being present at the premises or event or within the area—the public interest in maintaining freedom to participate in those activities;
 - (e) whether the degree of risk involved justifies the imposition of the conditions to be stated in the order, having regard, in particular, to any legitimate reason the respondent may have for being present at the premises or event or within the area;
 - (f) the extent to which making or extending the order will reduce the risk to public safety or security or effective traffic management;

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- (g) the extent to which making or extending the order will assist in achieving the objects of this Act. 1
2
3
- (3) The court may also consider anything else the court considers relevant. 4
5
- (4) In deciding whether a respondent satisfies a matter under subsection (1) or (2) in the case of a respondent that is a group of persons, the court must consider the extent to which members of the group, as opposed to every member of the group, satisfy the matter. 6
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- (5) The public safety order may be made or extended whether or not the respondent is present or makes submissions. 12
13
14
- Note for subsection (5)—* 15
- See section 25(5)(c) for service requirements for an application to make or extend a public safety order. 16
17

28 Conditions 18

- (1) In making or extending a public safety order for a respondent, the court may impose the conditions on the respondent that the court considers necessary having regard to the grounds for making or extending the order. 19
20
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- (2) Without limiting subsection (1), a condition may prohibit the respondent from doing or attempting to do any of the following while the order is in force— 24
25
26
27
 - (a) entering or remaining at stated premises; 28
 - (b) attending or remaining at a stated event; 29
 - (c) entering or remaining in a stated area; 30
 - (d) doing a stated thing in a stated area. 31
- (3) Also, it is a condition of the order that the respondent must comply with every reasonable 32
33

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|--------------------------------------------------------|----|
| direction given by a police officer for the purpose | 1 |
| of the order. | 2 |
| (4) Without limiting subsection (3), the condition | 3 |
| under the subsection must be stated in the order. | 4 |
| (5) The court may impose a condition on the order | 5 |
| about the use by a police officer of a power under | 6 |
| section 31. | 7 |
| (6) A public safety order does not stop the respondent | 8 |
| from entering the respondent's principal place of | 9 |
| residence. | 10 |

29 Duration 11

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|---------------------------------------------------|----|
| (1) A public safety order made by a court takes | 12 |
| effect— | 13 |
| (a) when the order is made, if the respondent or | 14 |
| a legal or other representative of the | 15 |
| respondent is present at the hearing of the | 16 |
| application; or | 17 |
| (b) if paragraph (a) does not apply—when a | 18 |
| police officer serves the order on the | 19 |
| respondent. | 20 |
| (2) Service under subsection (1)(b) must be by | 21 |
| personal service or, if personal service is not | 22 |
| practicable or the respondent is a group of | 23 |
| persons, by public notice. | 24 |
| (3) The order served on the respondent must state | 25 |
| that— | 26 |
| (a) the respondent may appeal to the District | 27 |
| Court against the order; and | 28 |
| (b) the notice of appeal must be filed within 28 | 29 |
| days after— | 30 |
| (i) the day on which the order was made; | 31 |
| or | 32 |

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

30 Revocation or variation

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

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|--------------------------------------------------------|----|
| application, with any accompanying affidavit, on | 1 |
| the respondent. | 2 |
| (5) The senior police officer must serve a copy of the | 3 |
| order for the variation or revocation on the | 4 |
| respondent as soon as practicable after the order is | 5 |
| made. | 6 |
| (6) Service of the application or order must be by | 7 |
| personal service or, if personal service is not | 8 |
| practicable or the respondent is a group of | 9 |
| persons, by public notice. | 10 |

Division 4	Police powers for	11
	enforcing public safety	12
	orders	13

- | | |
|---------------------------------------------------------------|----|
| <i>Note—</i> | 14 |
| See also the following provisions of the <i>Police Powers</i> | 15 |
| <i>and Responsibilities Act 2000</i> relating to police | 16 |
| powers— | 17 |
| • section 19 (General power to enter to make | 18 |
| inquiries, investigations or serve documents) | 19 |
| • section 41(o)(i) (Prescribed circumstances for | 20 |
| requiring name and address) | 21 |
| • section 60(3)(j)(i) (Stopping vehicles for prescribed | 22 |
| purposes) | 23 |

31 Prevention of contravention of public safety	24
order	25

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|---------------------------------------------------------|----|
| (1) This section applies if a police officer reasonably | 26 |
| suspects an offence against section 32 has been | 27 |
| committed, is being committed, or is about to be | 28 |
| committed in relation to a public safety order. | 29 |
| (2) The police officer may exercise 1 or more of the | 30 |
| following powers— | 31 |

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- (a) stop a person or group of persons for whom the order has been made from entering a public safety place; 1
2
3
 - (b) stop, detain and search a vehicle approaching, in or leaving a public safety place— 4
5
6
 - (i) to search for a person for whom the order has been made; or 7
8
 - (ii) to serve a copy of the order on a person for whom the order has been made; 9
10
 - (c) remove a person or group of persons for whom the order has been made from a public safety place; 11
12
13
 - (d) take any other steps the police officer reasonably considers necessary. 14
15
- (3) However, before exercising a power under subsection (2), a police officer must, if it is practicable to do so, first give the person against whom the power is to be exercised a direction— 16
17
18
19
 - (a) for subsection (2)(a)—not to enter the public safety place; or 20
21
 - (b) for subsection (2)(c)—to leave the public safety place; or 22
23
 - (c) for subsection (2)(d)—to take the step the police officer reasonably considers necessary. 24
25
26
- (4) A police officer may give any direction that is reasonably necessary to exercise a power under subsection (2) or (3). 27
28
29
- (5) A direction given under this section is taken to be a direction given under the *Police Powers and Responsibilities Act 2000*. 30
31
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Note—

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|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| | Failure to comply with a direction given under this section is an offence against the <i>Police Powers and Responsibilities Act 2000</i> , section 791. | 1
2
3
4 |
| (6) | A person does not commit an offence against the <i>Police Powers and Responsibilities Act 2000</i> , section 791 if— | 5
6
7 |
| (a) | the person was directed to do something under this section; and | 8
9 |
| (b) | the court is not satisfied that the police officer, at the time of giving the direction, had the suspicion mentioned in subsection (1). | 10
11
12
13 |
| (7) | In this section— | 14 |
| | <i>public safety place</i> means— | 15 |
| (a) | premises or an area to which a public safety order applies; or | 16
17 |
| (b) | a place where an event is taking place to which a public safety order applies. | 18
19 |

Division 5 Offence 20

32 Contravention of public safety order 21

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|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| (1) | A person who, without reasonable excuse, knowingly contravenes a public safety order made for the person, or a group of persons of which the person is a member, commits a misdemeanour. | 22
23
24
25
26 |
| | Maximum penalty—300 penalty units or 3 years imprisonment. | 27
28 |
| (2) | A person knowingly contravenes a public safety order if the person does an act or makes an omission the person knows, or ought reasonably | 29
30
31 |

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to know, is a contravention of the public safety order.	1 2
Part 4	
Restricted premises orders	3 4
Division 1	
Preliminary	5
33 Definitions for part	6
In this part—	7
<i>disorderly activity</i> , at premises, means—	8
(a) drunkenness, disorderly or indecent conduct, or entertainment of a demoralising character, at the premises; or	9 10 11
(b) the unlawful supply of liquor or drugs from the premises; or	12 13
(c) the unlawful possession at, or supply from, the premises of firearms or explosives; or	14 15
(d) the presence of any of the following at the premises—	16 17
(i) recognised offenders;	18
(ii) associates of recognised offenders;	19
(iii) persons subject to a control order; or	20
(e) the participation of any of the following in the control or management of the premises—	21 22 23
(i) recognised offenders;	24
(ii) associates of recognised offenders;	25
(iii) persons subject to a control order; or	26

-
- (f) the existence of fortification of the premises that is excessive for lawful use of that type of premises. 1
2
3
- prescribed place*** means a place prescribed by regulation under section 41. 4
5
- prohibited item*** means— 6
- (a) liquor; or 7
- (b) drugs; or 8
- (c) a firearm; or 9
- (d) an explosive; or 10
- (e) any drinking glass, vessel or container that is used or is capable of being used for or in connection with the storage, supply or consumption of liquor or drugs; or 11
12
13
14
- (f) any thing that is used or is capable of being used inside premises to contribute to or enhance the ambience of the premises in support of the sale or consumption of liquor or drugs, or entertainment of a demoralising character, at the premises; or 15
16
17
18
19
20
- Examples of things used in support of the sale or consumption of liquor or drugs—* 21
22
- a bar fitout 23
 - a music, entertainment, gaming or lighting system 24
25
 - a pool or billiard table or darts board 26
 - a dance floor or stage 27
- Examples of things used in support of entertainment of a demoralising character—* 28
29
- a stripper's pole 30
- (g) fortification of premises that is excessive for lawful use of that type of premises. 31
32
- respondent***— 33
-

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- | | |
|-----------------------------------------------------------------------------|--------|
| (a) to an application for a restricted premises order—see section 35(1); or | 1
2 |
| (b) to an application for an extension order—see section 44(1). | 3
4 |
| <i>restricted premises</i> means— | 5 |
| (a) premises for which a restricted premises order is in force; or | 6
7 |
| (b) a prescribed place taken to be restricted premises under division 3. | 8
9 |

Division 2 Making of orders 10

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| 34 Senior police officer may apply for restricted premises order | 11
12 |
| (1) A senior police officer may apply to a court for a restricted premises order for stated premises, other than licensed premises. | 13
14
15 |
| (2) The application must state the following— | 16 |
| (a) details sufficient to identify the premises; | 17 |
| (b) details sufficient to identify the owner and occupier of the premises; | 18
19 |
| (c) the grounds on which the order is sought, being grounds mentioned in section 36 to the extent they are relevant to the application; | 20
21
22
23 |
| (d) the information supporting the grounds; | 24 |
| (e) details of any previous application for a restricted premises order in relation to— | 25
26 |
| (i) the premises mentioned in paragraph (a); or | 27
28 |
| (ii) an owner or occupier mentioned in paragraph (b); | 29
30 |

-
- (f) that an owner or occupier of the premises may file a response to the application under section 35.
 - 1
 - 2
 - 3
 - (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
 - 4
 - 5
 - 6
 - (4) The application, with any accompanying affidavit, must—
 - 7
 - 8
 - (a) be filed; and
 - 9
 - (b) on filing, state as the return date a day within 35 days after the filing; and
 - 10
 - 11
 - (c) after being filed, be served by a police officer on the respondent—
 - 12
 - 13
 - (i) by personal service within 7 business days after the filing; or
 - 14
 - 15
 - (ii) if personal service is not practicable or the respondent is a group of persons, by public notice within 10 days after the filing.
 - 16
 - 17
 - 18
 - 19
 - (5) In this section—
 - 20
 - licensed premises* see the *Liquor Act 1992*,
 - 21
 - 22

35 Response by owner or occupier 23

- (1) An owner or occupier of premises for which a restricted premises order is sought (the *respondent*) may file a response to the application.
 - 24
 - 25
 - 26
 - 27
- (2) The response must state—
 - 28
 - (a) the facts relied on by the respondent in response to the application; and
 - 29
 - 30
 - (b) the nature of the response in relation to each order sought by the senior police officer.
 - 31
 - 32

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|-----|------------------------------------------------------------------------------------------------------------------------------------|-------------|
| (3) | The respondent must file the response, and serve it on the senior police officer, at least 5 business days before the return date. | 1
2
3 |
| (4) | The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application. | 4
5
6 |

36 Court may make restricted premises order 7

- | | | |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| (1) | The court may make a restricted premises order for stated premises if the court is satisfied— | 8
9 |
| (a) | a senior police officer reasonably suspects that 1 or more disorderly activities have taken place at the premises and are likely to take place again at the premises; and | 10
11
12
13 |
| (b) | making the order is appropriate in the circumstances. | 14
15 |
| (2) | In considering whether or not to make the order, the court must have regard to the following— | 16
17 |
| (a) | the extent to which the premises are open to the public, or used by the public, whether on payment or otherwise; | 18
19
20 |
| (b) | the extent to which disorderly activities habitually take place at the premises; | 21
22 |
| (c) | the extent to which making the order will reduce the risk to public safety caused by disorderly activities taking place at the premises; | 23
24
25
26 |
| (d) | the extent to which making the order will assist in achieving the objects of this Act. | 27
28 |
| (3) | The court may also consider anything else the court considers relevant. | 29
30 |
| (4) | The restricted premises order may be made whether or not an owner or occupier of the premises is present or makes submissions. | 31
32
33 |

Note for subsection (4)—

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

37 Conditions

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

38 Duration

- (1) A restricted premises order takes effect—

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

39 Revocation or variation

- (1) A court, at any time on application by a senior police officer, may make an order to vary or

revoke a restricted premises order.	1
(2) An application must state—	2
(a) the grounds on which the variation or revocation is sought; and	3
(b) the information supporting the grounds on which the variation or revocation is sought.	4
(3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.	5
(4) A police officer must serve a copy of the application, with any accompanying affidavit, on the respondent.	6
(5) A police officer must serve a copy of the order for the variation or revocation on an owner or occupier of the premises as soon as practicable after the order is made.	7
(6) Service of the application or order must be by personal service or, if personal service is not practicable, by public notice.	8
Division 3 Prescribed places	9
40 Definitions for division	10
In this division—	11
<i>extended period</i> see section 43(1).	12
<i>extension order</i> see section 43(1).	13
<i>initial period</i> see section 42(1).	14
41 Regulation-making power for prescribed places	15
(1) A regulation may prescribe a place as a prescribed place for the purposes of this division.	16

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- (2) A regulation made under subsection (1) after the commencement—
 - (a) may omit a place prescribed by regulation on commencement; and
 - (b) must not prescribe a place that was not prescribed by regulation on commencement.
- 42 Prescribed place taken to be restricted premises for 2 years**
 - (1) A prescribed place is taken to be restricted premises for 2 years starting on the commencement (the *initial period*).
 - (2) For section 54—
 - (a) the owner or occupier of the prescribed place is taken to have been served with a restricted premises order for the prescribed place, including the condition mentioned in section 37(2), on the commencement; and
 - (b) the restricted premises order mentioned in paragraph (a) is taken to remain in force for the initial period.
 - (3) To remove any doubt, if a regulation made under section 41(1) after the commencement omits a place prescribed by regulation on commencement, the place stops being a prescribed place.
- 43 Extension of initial period**
 - (1) A senior police officer may apply to a court for an order (an *extension order*) that a prescribed place be taken to be restricted premises for a further stated period of at least 6 months and not more than 2 years (the *extended period*).
 - (2) The application must be made at least 1 year after

-
- the commencement and at least 2 months before 1
the end of the initial period or the immediately 2
preceding extended period. 3
- (3) The application must state— 4
- (a) the grounds on which the extension order is 5
sought; and 6
- (b) the information supporting the grounds on 7
which the extension order is sought. 8
- (4) The application must be accompanied by any 9
affidavit the senior police officer intends to rely 10
on at the hearing of the application. 11
- (5) The application, with any accompanying 12
affidavit, must— 13
- (a) be filed; and 14
- (b) on filing, state as the return date a day 15
within 35 days after the filing; and 16
- (c) after being filed, be served by a police 17
officer on the respondent within 10 days 18
after the filing. 19
- (6) Service under subsection (5)(c) must be by 20
personal service or, if personal service is not 21
practicable, by public notice. 22
- (7) To remove any doubt, it is declared that a senior 23
police officer may make an application under 24
subsection (1) from time to time as occasion 25
requires. 26
- 44 Response by owner or occupier 27**
- (1) An owner or occupier of premises for which an 28
extension order is sought (the *respondent*) may 29
file a response to the application. 30
- (2) The response must state— 31

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- (a) the facts relied on by the respondent in response to the application; and 1
2
- (b) the nature of the response in relation to each order sought by the senior police officer. 3
4
- (3) The respondent must file the response, and serve it on the senior police officer, at least 5 business days before the return date. 5
6
7
- (4) The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application. 8
9
10

45 Court may make extension order 11

- (1) The court must make an extension order for a prescribed place if the court is satisfied— 12
13
 - (a) 1 or more disorderly activities have taken place at the premises, whether before or after the commencement; and 14
15
16
 - (b) if the court did not grant the order, 1 or more disorderly activities would be likely to take place again at the premises; and 17
18
19
 - (c) making the order is appropriate in the circumstances. 20
21
- (2) In considering whether or not to make the extension order, the court must have regard to the following— 22
23
24
 - (a) the extent to which the premises are open to the public, or used by the public, whether on payment or otherwise; 25
26
27
 - (b) the extent to which disorderly activities habitually take place at the premises; 28
29
 - (c) the extent to which making the order will reduce the risk to public safety caused by disorderly activities taking place at the premises; 30
31
32
33

(d) the extent to which making the order will assist in achieving the objects of this Act.	1 2
(3) The court may also consider anything else the court considers relevant.	3 4
(4) The extension order may be made whether or not an owner or occupier of the premises is present or makes submissions.	5 6 7
<i>Note—</i>	8
See section 43(5)(c) for service requirements for an application to make an extension order.	9 10
46 Effect of extension order	11
(1) If a court makes an extension order for a prescribed place, the prescribed place is taken to continue to be restricted premises for the extended period.	12 13 14 15
(2) For section 54—	16
(a) the owner or occupier of the prescribed place is taken to have been served with a restricted premises order for the prescribed place, including the condition mentioned in section 37(2), on the day on which the owner or occupier was served with the extension order; and	17 18 19 20 21 22 23
(b) the restricted premises order mentioned in paragraph (a) is taken to remain in force for the extended period.	24 25 26
47 Duration	27
(1) An extension order takes effect—	28
(a) when the order is made, if an owner or occupier of the prescribed place, or a legal or other representative of an owner or	29 30 31

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|-------------------------------------------------------|----|
| occupier of the prescribed place is present at | 1 |
| the hearing of the application; or | 2 |
| (b) if paragraph (a) does not apply—when a | 3 |
| police officer serves the extension order on | 4 |
| an owner or occupier of the prescribed | 5 |
| place. | 6 |
| (2) Service under subsection (1)(b) must be by | 7 |
| personal service or, if personal service is not | 8 |
| practicable, by public notice, within 28 days | 9 |
| before the end of the initial period. | 10 |
| (3) The order served on the owner or occupier must | 11 |
| state— | 12 |
| (a) that the owner or occupier may appeal to the | 13 |
| District Court against the order; and | 14 |
| (b) the notice of appeal must be filed within 28 | 15 |
| days after— | 16 |
| (i) the day on which the order was made; | 17 |
| or | 18 |
| (ii) for an order made in the absence of an | 19 |
| owner or occupier or a legal or other | 20 |
| representative of an owner or | 21 |
| occupier—the day on which the order | 22 |
| was served on the owner or occupier. | 23 |
| (4) An extension order for a prescribed place remains | 24 |
| in force until the earlier of the following— | 25 |
| (a) the day the order is revoked; | 26 |
| (b) the day stated in the order, which must be at | 27 |
| least 6 months, and not more than 2 years | 28 |
| after, the end of the initial period for the | 29 |
| prescribed premises; | 30 |
| (c) the day the place stops being a prescribed | 31 |
| place. | 32 |

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- 48 Revocation or variation** 1
- (1) The court, at any time on application by a senior 2
police officer, may make an order to vary or 3
revoke an extension order for a prescribed place. 4
- (2) An application must state— 5
- (a) the grounds on which the variation or 6
revocation is sought; and 7
- (b) the information supporting the grounds on 8
which the variation or revocation is sought. 9
- (3) The application must be accompanied by any 10
affidavit the senior police officer intends to rely 11
on at the hearing of the application. 12
- (4) A police officer must serve a copy of the 13
application, with any accompanying affidavit, on 14
an owner or occupier of the prescribed place. 15
- (5) A police officer must serve a copy of the order for 16
the variation or revocation on an owner or 17
occupier of the prescribed place as soon as 18
practicable after the order is made. 19
- (6) Service of the application or order must be by 20
personal service or, if personal service is not 21
practicable, by public notice. 22

Division 4 Police powers for 23
enforcing restricted 24
premises orders 25

- Note—* 26
- See also the following provisions of the *Police Powers 27
and Responsibilities Act 2000* relating to police 28
powers— 29
- section 19 (General power to enter to make 30
inquiries, investigations or serve documents) 31

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- section 41(o)(ii) (Prescribed circumstances for requiring name and address) 1
2
- section 60(3)(j)(ii) (Stopping vehicles for prescribed purposes) 3
4
- section 150(1)(e) (Search warrant application) 5

49 Searching restricted premises without warrant 6

- (1) It is lawful for a police officer to exercise the following powers in relation to restricted premises without a search warrant— 7
8
9
 - (a) power to enter the restricted premises and to stay on the restricted premises for the time reasonably necessary to exercise the powers mentioned in paragraphs (b) to (f); 10
11
12
13
 - (b) power to search the restricted premises for— 14
15
 - (i) a prohibited item; or 16
 - (ii) anything that may be evidence of the commission of an offence; 17
18
 - (c) power to seize from the restricted premises— 19
20
 - (i) a prohibited item; or 21
 - (ii) anything that may be evidence of the commission of an offence; 22
23
 - (d) power to open anything that is locked; 24
 - (e) power to search any person found at the premises for anything mentioned in paragraph (c) that can be concealed on the person; 25
26
27
28
 - (f) power to photograph any thing that may be evidence of disorderly activities taking place at the restricted premises. 29
30
31
- (2) To remove any doubt, it is declared that a power mentioned in subsection (1) may be exercised 32
33

from time to time as occasion requires. 1

Division 5 Applications for return of prohibited items 2 3

50 Application to court by owner for return of prohibited item 4 5

- (1) This section applies if a police officer seizes a prohibited item from— 6
7
 - (a) restricted premises in the exercise of powers under section 49; or 8
9
 - (b) premises the subject of a search warrant applied for under the *Police Powers and Responsibilities Act 2000*, section 150(1)(e) in exercise of powers under section 157(1)(h) of that Act. 10
11
12
13
14
- (2) A person who claims to have a legal or equitable interest in the prohibited item may, within 21 days after its seizure, apply to a court for an order that the item be returned to— 15
16
17
18
 - (a) the person (the *applicant*); or 19
 - (b) someone else named in the application as the person to whom the item may be delivered (the *nominee*). 20
21
22
- (3) The applicant must give each of the following a copy of the application and notice of the day, time and place fixed for hearing the application— 23
24
25
 - (a) the commissioner; 26
 - (b) anyone else the person reasonably believes has a legal or equitable interest in the item. 27
28
- (4) In this section— 29
30
prohibited item does not include an item that is— 30

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- (a) evidence of the commission of an offence; 1
or 2
- (b) forfeited to the State under an Act. 3

51 Court may order return of prohibited item 4

- (1) The court may order that the prohibited item be 5
returned to the applicant or the nominee on the 6
conditions, if any, the court considers appropriate 7
if satisfied— 8
 - (a) the applicant may lawfully possess the item; 9
and 10
 - (b) for a prohibited item seized from restricted 11
premises—the seizure was not lawful under 12
section 49; and 13
 - (c) for a prohibited item seized from premises 14
the subject of a search warrant applied for 15
under the *Police Powers and* 16
Responsibilities Act 2000, section 17
150(1)(e)—the disorderly activities forming 18
the grounds on which the warrant was 19
sought were not taking place at the 20
premises; and 21
 - (d) it is appropriate that the item be returned to 22
the applicant or nominee. 23
- (2) If the court proposes to order that the prohibited 24
item be returned to the nominee, the court must 25
also be satisfied that the nominee may lawfully 26
possess the item. 27
- (3) The court must not order the return of a prohibited 28
item to the applicant or the nominee if the court is 29
satisfied the item— 30
 - (a) may be evidence in a proceeding relating to 31
the item; or 32

- (b) is a thing used in or for manufacturing a dangerous drug; or 1
2
- (c) may be subject to a confiscation proceeding. 3
- (4) In this section— 4
- applicant* see section 50(2)(a). 5
- confiscation proceeding* means a proceeding for 6
an order under the *Criminal Proceeds* 7
Confiscation Act 2002. 8
- nominee* see section 50(2)(b). 9

Division 6 Forfeiture of prohibited items 10 11

52 Application of division 12

This division applies if— 13

- (a) a police officer seizes a prohibited item 14
from— 15
 - (i) restricted premises in the exercise of 16
powers under section 49; or 17
 - (ii) premises the subject of a search 18
warrant applied for under the *Police* 19
Powers and Responsibilities Act 2000, 20
section 150(1)(e) in exercise of powers 21
under section 157(1)(h) of that Act; 22
and 23
- (b) either— 24
 - (i) an application under division 5 for the 25
return of the prohibited item has not 26
been made within 21 days after the 27
item was seized; or 28
 - (ii) a magistrate has refused to return the 29
prohibited item under section 51. 30

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53 Forfeiture of prohibited item	1
(1) The commissioner may forfeit the prohibited item to the State.	2 3
(2) On the forfeiture, the prohibited item—	4
(a) becomes the property of the State; and	5
(b) may, subject to any direction given under the <i>Police Service Administration Act 1990</i> , section 4.6, be dealt with by the commissioner as the commissioner considers appropriate.	6 7 8 9 10
(3) Without limiting subsection (2), the commissioner may destroy or dispose of the prohibited item.	11 12 13
(4) Subsections (5) and (6) apply if the commissioner proposes to sell the prohibited item.	14 15
(5) The sale must be by auction.	16
(6) The proceeds of the sale must be applied in the following order—	17 18
(a) first, in meeting the expenses of the sale;	19
(b) second, in meeting any reasonable costs incurred in—	20 21
(i) seizing the prohibited item; and	22
(ii) storing the prohibited item; and	23
(iii) doing anything necessary to prepare the prohibited item for sale;	24 25
(c) third, to the consolidated fund.	26
 Division 7 Offence	 27

54 Offence by owner or occupier of restricted premises	1
	2
(1) An owner or occupier of restricted premises commits a misdemeanour if—	3
	4
(a) an owner or occupier has been served with a restricted premises order for the restricted premises; and	5
	6
	7
(b) a disorderly activity takes place at the restricted premises after the order has been served and while the order remains in force; and	8
	9
	10
	11
(c) the owner or occupier knows, or ought reasonably to know, that the disorderly activity has taken place.	12
	13
	14
Maximum penalty—	15
(a) for the first offence—150 penalty units or imprisonment for 18 months; or	16
	17
(b) for each later offence—300 penalty units or 3 years imprisonment.	18
	19
(2) An owner or occupier of premises is not guilty of an offence against subsection (1) if the owner or occupier proves the owner or occupier has taken all reasonable steps to prevent the contravention.	20
	21
	22
	23
(3) An owner of premises is not guilty of an offence against subsection (1) if the owner proves the owner has taken all reasonable steps to evict the occupier from the premises.	24
	25
	26
	27

Division 8 Evidentiary matters 28

55 Disorderly activity taken to have happened if obstruction or fortification	29
	30
(1) This section applies if—	31

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- | | | |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| (a) | a police officer exercises, or attempts to exercise— | 1
2 |
| (i) | a function under section 49 in relation to restricted premises; or | 3
4 |
| (ii) | a function under the <i>Police Powers and Responsibilities Act 2000</i> , section 157 in relation to premises; and | 5
6
7 |
| (b) | any of the following applies— | 8 |
| (i) | the police officer is assaulted or obstructed in the performance of the officer's function; | 9
10
11 |
| (ii) | the performance of the police officer's function is hindered by excessive fortification of the premises. | 12
13
14 |
| (2) | This section also applies if a police officer has given a stop and desist notice to an owner or occupier of premises within 14 days before applying for a restricted premises order for the premises and the notice has not been complied with before the day of the hearing of the application. | 15
16
17
18
19
20
21 |
| (3) | In a relevant proceeding, evidence of any of the matters mentioned in subsection (1)(b) or (2) is evidence that a disorderly activity has taken place at the premises unless proven otherwise. | 22
23
24
25 |
| (4) | In this section— | 26 |
| | <i>assault</i> has the meaning given by the Criminal Code, section 245. | 27
28 |
| | <i>function</i> includes power. | 29 |
| | <i>obstruct</i> includes hinder, resist and attempt to obstruct. | 30
31 |
| | <i>relevant proceeding</i> means— | 32 |

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- | | | |
|-----|-------------------------------------------------------------------------------------------------------------|-------------|
| (a) | a proceeding against a person for a charge of having committed an offence against section 54; or | 1
2
3 |
| (b) | an application under this part to a court; or | 4 |
| (c) | an appeal relating to a proceeding mentioned in paragraph (a) or an application mentioned in paragraph (b). | 5
6
7 |

Part 5	Fortification removal orders	8 9
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Division 1	Preliminary	10
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56	Definitions for part	11
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In this part—	12
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<i>fortification</i> , of premises, means any structure or device that, alone or as a system or part of a system, is designed to stop or hinder, or to provide any other form of step against, uninvited entry to the premises.	13 14 15 16 17
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------

<i>Example of a device that may be part of a system—</i>	18
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a video surveillance system, also called security camera surveillance	19 20
-----------------------------------------------------------------------	----------

<i>respondent</i> , to an application for a fortification removal order, see section 59(1).	21 22
---------------------------------------------------------------------------------------------	----------

57	Relationship with Sustainable Planning Act 2009 and development approvals	23 24
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- | | | |
|-----|----------------------------------------------------------------------------------------------------------------------|----------------|
| (1) | This section applies for the carrying out of development as defined under the <i>Sustainable Planning Act 2009</i> — | 25
26
27 |
|-----|----------------------------------------------------------------------------------------------------------------------|----------------|

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- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| (a) authorised under a fortification removal order; or | 1
2 |
| (b) that is enforcement action. | 3 |
| (2) If, other than for this subsection, the development would be any of the following under the <i>Sustainable Planning Act 2009</i> it is taken to be exempt development under that Act— | 4
5
6
7 |
| (a) assessable development; | 8 |
| (b) development requiring compliance assessment; | 9
10 |
| (c) prohibited development. | 11 |
| (3) The development may be carried out despite any development approval under the <i>Sustainable Planning Act 2009</i> . | 12
13
14 |

Division 2 Making of orders 15

58 Senior police officer may apply for fortification removal order 16 17

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| (1) A senior police officer may apply to a court for a fortification removal order for stated premises. | 18
19 |
| (2) The application must state the following— | 20 |
| (a) details sufficient to identify the premises and the fortification; | 21
22 |
| (b) details sufficient to identify the owner and occupier of the premises; | 23
24 |
| (c) the grounds on which the order is sought, being grounds mentioned in section 60 to the extent they are relevant to the application; | 25
26
27
28 |
| (d) the information supporting the grounds; | 29 |

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-
- (e) details of any previous application for a fortification removal order in relation to—
 - (i) the premises mentioned in paragraph (a); or
 - (ii) an owner or occupier mentioned in paragraph (b);
 - (f) that an owner or occupier of the premises may file a response to the application under section 59.
 - (3) The application must be accompanied by any affidavit the senior police officer intends to rely on at the hearing of the application.
 - (4) The application, with any accompanying affidavit, must—
 - (a) be filed; and
 - (b) on filing, state as the return date a day within 35 days after the filing; and
 - (c) after being filed, be served by a police officer on the respondent—
 - (i) by personal service within 7 business days after the filing; or
 - (ii) if personal service is not practicable or the respondent is a group of persons, by public notice within 10 days after the filing.

59 Response by owner or occupier

- (1) An owner or occupier of premises for which a fortification removal order is sought (the *respondent*) may file a response to the application.
- (2) The response must state—

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- (a) the facts relied on by the respondent in response to the application; and 1
2
- (b) the nature of the response in relation to each order sought by the applicant. 3
4
- (3) The respondent must file the response, and serve it on the applicant, at least 5 business days before the return date. 5
6
7
- (4) The response must be accompanied by any affidavit the respondent intends to rely on at the hearing of the application. 8
9
10

60 Court may make fortification removal order 11

- (1) The court may make a fortification removal order for stated premises if the court is satisfied— 12
13
 - (a) the premises have a fortification; and 14
 - (b) the fortified premises are either— 15
 - (i) being, have been or are likely to be, used for or in connection with serious criminal activity, or to conceal evidence of, or to keep proceeds of, serious criminal activity; or 16
17
18
19
20
 - (ii) owned or habitually occupied or used by a criminal organisation, participants in a criminal organisation, recognised offenders, or associates of recognised offenders; and 21
22
23
24
25
 - (c) the extent or nature of the fortification is excessive for lawful use of that type of premises; and 26
27
28
 - (d) making the order is appropriate in the circumstances. 29
30
- (2) In considering whether or not to make the order, the court must have regard to the following— 31
32

-
- (a) the extent to which the premises are open to the public, or used by the public, whether on payment or otherwise;
 - (b) the extent to which making the order will reduce the risk to public safety caused by habitual use of the premises by people mentioned in subsection (1)(b);
 - (c) the extent to which making the order will assist in achieving the objects of this Act.
- (3) The court may also consider anything else the court considers relevant.
 - (4) The fortification removal order may be made whether or not the respondent is present or makes submissions.
- Note—*
- See section 58(4)(c) for service requirements for an application to make a fortification removal order.
- (5) The fortification removal order must state—
 - (a) the premises and the fortification; and
 - (b) the time or the period within which the fortification must be removed or modified; and
 - (c) if the order requires the fortification to be modified—details of the modification.

61 Conditions

- (1) In making a fortification removal order for stated premises, the court may impose the conditions on the respondent that the court considers necessary having regard to the grounds for making the order.
- (2) Without limiting subsection (1), a condition may require the respondent to remove or modify the fortification the subject of the order within a stated period.

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- | | | |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| 62 | When order takes effect | 1 |
| (1) | A fortification removal order takes effect— | 2 |
| (a) | when the order is made, if the respondent or
a legal or other representative of the
respondent is present at the hearing of the
application; or | 3
4
5
6 |
| (b) | if paragraph (a) does not apply—when a
police officer serves the order on the
respondent. | 7
8
9 |
| (2) | Service under subsection (1)(b) must be by
personal service or, if personal service is not
practicable or the respondent is a group of
persons, by public notice. | 10
11
12
13 |
|
63 |
Revocation or variation |
14 |
| (1) | The court, at any time on application by a senior
police officer, may make an order to vary or
revoke a fortification removal order. | 15
16
17 |
| (2) | An application must state— | 18 |
| (a) | the grounds on which the variation or
revocation is sought; and | 19
20 |
| (b) | the information supporting the grounds on
which the variation or revocation is sought. | 21
22 |
| (3) | The application must be accompanied by any
affidavit the senior police officer intends to rely
on at the hearing of the application. | 23
24
25 |
| (4) | The senior police officer must serve a copy of the
application, with any accompanying affidavit, on
an owner or occupier of the premises. | 26
27
28 |
| (5) | The senior police officer must serve a copy of the
order for the variation or revocation on an owner
or occupier of the premises as soon as practicable
after the order is made. | 29
30
31
32 |
| (6) | Service of the application or order must be by | 33 |

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personal service or, if personal service is not practicable or the owner or occupier is a group of persons, by public notice. 1
2
3

Division 3 Police powers for enforcing fortification removal orders 4 5 6

Note— 7
See also the following provisions of the *Police Powers and Responsibilities Act 2000* relating to police powers— 8
9
10
• section 19 (General power to enter to make inquiries, investigations or serve documents) 11
12
• section 41(o)(iii) (Prescribed circumstances for requiring name and address) 13
14
• section 60(3)(j)(iii) (Stopping vehicles for prescribed purposes) 15
16

64 Application of division 17

This division applies if— 18
(a) a fortification removal order has taken effect; and 19
20
(b) the period within which to file an appeal about the order has ended and— 21
22
(i) no appeal about the order has been filed; or 23
24
(ii) any appeal about the order has been withdrawn or dismissed; and 25
26
(c) the order has not been complied with. 27

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65 Powers for removing and modifying fortifications	1 2
(1) A police officer may cause the fortification the subject of the fortification removal order to be removed or modified to the extent required under the order (<i>enforcement action</i>).	3 4 5 6
(2) A police officer may, for taking enforcement action, do all or any of the following—	7 8
(a) enter the fortified premises the subject of the order;	9 10
(b) remain on the fortified premises for the time necessary to achieve the removal or modification;	11 12 13
(c) obtain expert or technical advice;	14
(d) take into or onto the fortified premises any persons, equipment and materials the police officer reasonably requires to take the action;	15 16 17 18
(e) require the occupier of the fortified premises, or a person at the premises, to give the police officer reasonable help to take the action or exercise the powers under paragraphs (a) to (d);	19 20 21 22 23
(f) remove any person from the fortified premises if it is necessary or desirable to do so to take the action.	24 25 26
(3) A police officer may use force that is reasonably necessary to remove a person under subsection (2)(f).	27 28 29
(4) The powers under this section—	30
(a) may, subject to sections 66 and 67 and the terms of the order, be exercised at any time and as often as is required to achieve the removal or modification; and	31 32 33 34

(b) do not limit or otherwise affect any enforcement powers under the fortification removal order.	1 2 3
66 Procedure for entry to fortified premises	4
(1) This section applies if—	5
(a) a police officer is intending to enter fortified premises to take enforcement action; and	6 7
(b) a person who is the respondent or an occupier of the fortified premises is present at the premises.	8 9 10
(2) Before entering the fortified premises, the police officer must do, or make a reasonable attempt to do, the following—	11 12 13
(a) identify himself or herself to the person;	14
(b) tell the person—	15
(i) the purpose of the entry; and	16
(ii) that the police officer is permitted under this Act to enter the fortified premises without the person's consent; and	17 18 19 20
(iii) about any ancillary powers the police officer thinks may need to be exercised to take the enforcement action;	21 22 23
(c) give the person an opportunity to allow the police officer to enter the fortified premises immediately without using force.	24 25 26
(3) However, subsection (2) does not apply if the fortification makes it impracticable to tell the occupier anything.	27 28 29
(4) In this section—	30
<i>ancillary powers</i> means—	31

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(a)	the powers under section 65(2)(c) to (f) as affected by the fortification removal order; and	1 2 3
(b)	any powers under the fortification removal order.	4 5
67	Requirements for entry to buildings on fortified premises	6 7
(1)	A police officer or a person authorised by a police officer may enter a building on the fortified premises only if the police officer reasonably believes the entry is needed to take the enforcement action.	8 9 10 11 12
(2)	Also, a person mentioned in subsection (1) may enter a part of the building where a person resides only if—	13 14 15
(a)	the police officer reasonably believes the fortification consists of or includes that part; and	16 17 18
(b)	entry to the part is needed to take the enforcement action.	19 20
68	Exemption from compliance with noise standards	21 22
(1)	Noise made or caused to be made during the taking of the enforcement action does not constitute an offence against the <i>Environmental Protection Act 1994</i> , section 440Q.	23 24 25 26
(2)	However, subsection (1) does not apply if the enforcement action is taken at a time prohibited under the fortification removal order.	27 28 29
Division 4	Forfeiture of fortifications	30

69 Application of division	1
This division applies if a police officer removes	2
fortification from fortified premises in taking	3
enforcement action.	4
70 Definitions for division	5
In this division—	6
<i>net proceed</i> see section 71(7).	7
<i>responsible person</i> , for a provision about a	8
fortification removal order or the taking of	9
enforcement action, means—	10
(a) the respondent to the application for the	11
order; or	12
(b) any other person who—	13
(i) was the occupier of the fortified	14
premises when the order was made;	15
and	16
(ii) knew or ought reasonably to have	17
known about the fortification being	18
installed.	19
71 Forfeiture of removed fortification	20
(1) The commissioner may forfeit the removed	21
fortification to the State.	22
(2) On the forfeiture, the removed fortification—	23
(a) becomes the property of the State; and	24
(b) may, subject to any direction given under the	25
<i>Police Service Administration Act 1990</i> ,	26
section 4.6, be dealt with by the	27
commissioner as the commissioner	28
considers appropriate.	29
(3) Without limiting subsection (2), the	30

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- commissioner may destroy or dispose of the removed fortification. 1
2
- (4) Subsections (5) and (6) apply if the commissioner proposes to sell the removed fortification. 3
4
- (5) The sale must be by auction. 5
- (6) The proceeds of the sale must be applied in the following order— 6
7
 - (a) first, in meeting the expenses of the sale; 8
 - (b) second, in meeting any reasonable costs incurred in— 9
10
 - (i) taking the enforcement action; and 11
 - (ii) storing the removed fortification; and 12
 - (iii) doing anything necessary to prepare the fortification for sale; 13
14
 - (c) third, to the consolidated fund. 15
- (7) An amount applied under subsection (6)(c) is a *net proceed* from the removed fortification. 16
17

72 Recovery of enforcement costs 18

- (1) The State may recover from a responsible person as a debt any reasonable costs incurred in taking the enforcement action. 19
20
21
- (2) Subsection (3) applies if— 22
 - (a) the fortification the subject of the enforcement action was removed in taking the action; and 23
24
25
 - (b) the removed fortification has been forfeited to the State under section 71. 26
27
- (3) Any net proceed from the fortification must be set off against the amount of the debt. 28
29

73 Compensation from State to particular owners	1
(1) This section applies if—	2
(a) a fortification has been removed or modified	3
under a fortification removal order or	4
because of the taking of enforcement action;	5
and	6
(b) the owner of the fortified premises is	7
someone other than a responsible person.	8
(2) The owner may claim compensation from the	9
State for any reasonable costs incurred for all or	10
any of the following—	11
(a) repairing any damage to the fortified	12
premises because of the removal or	13
modification;	14
(b) restoring the fortified premises to the	15
condition the premises were in before the	16
fortification was made.	17
(3) The compensation may be claimed and ordered in	18
a proceeding brought in a court of competent	19
jurisdiction.	20
(4) A court may order compensation in a proceeding	21
to be paid only if the court is satisfied it is just to	22
make the order in the circumstances of the	23
particular case.	24
74 Recovery of paid compensation from	25
 responsible person	26
(1) This section applies if—	27
(a) an owner mentioned in section 73 has made	28
a claim against the State under that section;	29
and	30
(b) the State has paid the owner an amount for	31
the claim.	32
(2) The State may recover the amount from any	33

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	responsible person as a debt.	1
(3)	However, any net proceed from the relevant fortification that has not already been set off under section 72(3) must be set off against the amount.	2 3 4 5
(4)	For this section it does not matter—	6
(a)	whether the amount was paid because of a judgment in a proceeding for the claim or under a compromise of the claim; or	7 8 9
(b)	that the responsible person was not a party to the proceeding or compromise.	10 11
Division 5	Offence	12
75	Hindering removal or modification of a fortification	13 14
(1)	A person who does an act or makes an omission with intent to hinder any of the following commits a misdemeanour—	15 16 17
(a)	the removal or modification of a fortification under a fortification removal order;	18 19 20
(b)	the taking of enforcement action.	21
	Maximum penalty—5 years imprisonment.	22
(2)	In this section—	23
	<i>fortification removal order</i> only includes a fortification removal order if—	24 25
(a)	the order has taken effect; and	26
(b)	the period within which to file an appeal about the order has ended and—	27 28
(i)	no appeal about the order has been filed; or	29 30

- (ii) any appeal about the order has been 1
withdrawn or dismissed. 2

hinder includes prevent, obstruct, interfere with 3
and delay. 4

Division 6 Evidentiary matters 5

76 Power to give stop and desist notice 6

- (1) A commissioned officer may give a notice (a *stop* 7
and desist notice), in the approved form, to an 8
owner or occupier of premises requiring the 9
owner or occupier to stop and desist from 10
installing stated fortification of the premises. 11
- (2) A commissioned officer may give a stop and 12
desist notice only if the officer reasonably 13
believes— 14
- (a) steps are being taken to install excessive 15
fortification of the premises; and 16
- (b) the premises are either— 17
- (i) being, have been or are likely to be, 18
used for or in connection with serious 19
criminal activity, or to conceal 20
evidence of, or to keep proceeds of, 21
serious criminal activity; or 22
- (ii) owned or habitually occupied or used 23
by a criminal organisation, participants 24
in a criminal organisation, recognised 25
offenders, or associates of recognised 26
offenders. 27
- (3) The notice takes effect— 28
- (a) when the notice is given by a police officer 29
to an owner or occupier of the premises by 30
personal service; or 31

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(b) if service under paragraph (a) is not practicable—by leaving the notice at the premises in a conspicuous place.	1 2 3
(4) The notice remains in force until the day that is 14 days after the day on which the notice is given to the owner or occupier under subsection (3).	4 5 6
77 Noncompliance with stop and desist notice taken to be evidence of fortification	7 8
(1) This section applies if—	9
(a) a commissioned officer gives a stop and desist notice to an owner or occupier of premises within 14 days before applying for a fortification removal order for the premises; and	10 11 12 13 14
(b) the notice has not been complied with before the day of the hearing of the application.	15 16 17
(2) In a proceeding relating to the application for the fortification removal order, evidence that the notice has not been complied with is evidence of the matters mentioned in section 60(1)(a) to (c) unless proven otherwise.	18 19 20 21 22

Part 6	Court proceedings	23
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Division 1	Jurisdiction	24
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78 Conferral of jurisdiction	25
A court has jurisdiction—	26
(a) to hear and decide an application made to the court under this Act; and	27 28

(b) to perform any other function or exercise any other power conferred on the court under this Act.	1 2 3
79 Constitution of Magistrates Court	4
A court exercising jurisdiction under this Act must be constituted by a magistrate.	5 6
Division 2 Proceedings for orders	7
80 General application of rules of court	8
The <i>Uniform Civil Procedure Rules 1999</i> apply in relation to applications made to a court under this Act to the extent the rules are consistent with this Act.	9 10 11 12
81 Standard of proof	13
A question of fact in proceedings under this Act, other than proceedings for an offence, is to be decided on the balance of probabilities.	14 15 16
82 Service by public notice	17
(1) This section applies if service by a police officer of an application or order by public notice is required or authorised by a provision of this Act.	18 19 20
(2) For service by public notice to be effective, the police officer must publish a notice—	21 22
(a) in a newspaper circulating throughout the State; and	23 24
(b) on the QPS website.	25
(3) The notice under subsection (2) need only state the following—	26 27

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- (a) the general nature of the application or order; 1
2
- (b) the respondent for the application or order; 3
- (c) for an application—how copies of any affidavit or draft order to be used in the application may be obtained or read. 4
5
6

83 Service affidavit that must be filed 7

- (1) This section applies for a provision of this Act that requires service of an application or order by a police officer by personal service or public notice. 8
9
10
- (2) For personal service, the police officer must file, as soon as practicable, an affidavit of personal service made by the individual who personally served the application or order. 11
12
13
14
- (3) For service by public notice, the police officer must file, by the end of the next business day after publication, an affidavit stating the following— 15
16
17
 - (a) why the service was by public notice rather than personal service; 18
19
 - (b) if the service was by public notice because it was not practicable to personally serve the application or order, the reasons personal service was not practicable; 20
21
22
23
 - (c) the steps taken to publish the notice. 24
- (4) The affidavit mentioned in subsection (3) must be accompanied by a copy of the published notice. 25
26
- (5) As soon as practicable after the affidavit mentioned in subsection (3) is filed, a sealed copy of the affidavit and notice must be sent by registered post to the respondent to the application or order at the respondent's last known address. 27
28
29
30
31
- (6) However, if the respondent is a group of persons and the police officer is not aware of any address 32
33

-
- of the respondent— 1
- (a) subsection (5) applies only if the police 2
officer is aware of the address of an 3
individual who the police officer believes to 4
be an office holder of the group; and 5
- (b) if subsection (5) applies under paragraph 6
(a), the subsection applies as if a reference 7
to the respondent were a reference to the 8
office holder. 9

Division 3 Proceedings for offences 10

84 Summary proceedings for offences 11

An offence against this Act not defined as a crime 12
or misdemeanour is a summary offence. 13

85 Proceedings for indictable offence 14

- (1) A proceeding for an indictable offence against 15
this Act may be taken, at the election of the 16
prosecution— 17
- (a) by way of summary proceeding under the 18
Justices Act 1886; or 19
- (b) on indictment. 20
- (2) A magistrate must not hear an indictable offence 21
summarily if— 22
- (a) the defendant asks at the start of the hearing 23
that the charge be prosecuted on indictment; 24
or 25
- (b) the magistrate believes the charge should be 26
prosecuted on indictment. 27
- (3) If subsection (2) applies— 28

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- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and 1
2
3
- (b) a plea of the person charged at the start of the proceeding must be disregarded; and 4
5
- (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and 6
7
8
9
10
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b). 11
12
13
14

86 When summary proceeding may start 15

A proceeding for a summary offence against this Act must be started within— 16
17

- (a) 1 year after the offence is committed; or 18
- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed. 19
20
21

Division 4 Appeals 22

87 Definition for division 23

In this division— 24

appellate court means— 25

- (a) for an appeal against a public safety order made by a commissioned officer—a court; or 26
27
28
- (b) otherwise—the District Court. 29

88 Who may appeal

A person who is aggrieved by any of the following decisions may appeal against the decision—

(a) a decision to make, or refuse to make, any of the following orders—

(i) a public safety order, other than a public safety order of a duration of no more than 72 hours made by a commissioned officer;

(ii) a restricted premises order;

(iii) a fortification removal order;

(b) a decision to extend, or refuse to extend, a public safety order under part 3, division 3;

(c) a decision to vary, or refuse to vary, any of the following orders—

(i) a public safety order under part 3, division 3;

(ii) a restricted premises order;

(iii) a fortification removal order;

(d) a decision to make, or refuse to make, an extension order under section 45;

(e) a decision to refuse to make an order under section 51 for the return of a prohibited item.

89 How to start appeal

(1) The appeal is started by filing a notice of appeal with the registrar of the appellate court.

(2) The appellant must—

(a) serve a copy of the notice on the respondent to the appeal; and

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-
- (b) file a copy of the notice in the court that made the decision being appealed. 1
2
 - (3) The notice of appeal must be filed within 28 days after— 3
4
 - (a) the day on which the decision was made; or 5
 - (b) for a decision made in the absence of an appellant or a legal or other representative of the appellant—the day on which the order the subject of the decision was served on the appellant. 6
7
8
9
10
 - (4) The appellate court may at any time extend the period for filing the notice of appeal. 11
12
 - (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on. 13
14
 - (6) Despite subsections (1) to (4), if the decision being appealed is a decision of a commissioned officer to make a public safety order— 15
16
17
 - (a) subsection (2)(b) does not apply; and 18
 - (b) the notice of appeal must be filed within 7 days after the order takes effect; and 19
20
 - (c) the return date for the hearing of the appeal must be the day after the day the notice of appeal was filed; and 21
22
23
 - (d) subsection (4) does not apply. 24
- 90 Effect of particular orders not stayed by appeal** 25
- (1) This section applies for the purpose of proceedings for an appeal in relation to an order made under part 3, 4 or 5. 26
27
28
 - (2) The appeal does not affect— 29
 - (a) the operation of the order; or 30
 - (b) prevent the taking of action to implement the order. 31
32
-

-
- (3) However, the court may order the suspension of
the operation of the order or stay any proceeding
under the order if the court is satisfied it would be
appropriate to do so, having regard to—
- (a) the likely impact of the suspension or stay
on the protection of the safety, welfare,
security, and peace and good order of the
community from risks presented by people
engaging in antisocial, disorderly or
criminal conduct; and
- (b) any other relevant matter.

91 Hearing procedures

- (1) An appeal must be decided on the evidence and
proceedings before the court that made the
decision being appealed.
- (2) However, the appellate court may order that the
appeal be heard afresh, in whole or part.

92 Powers of appellate court

- (1) In deciding an appeal against a decision, the
appellate court may—
- (a) confirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute another
decision; or
- (d) set aside the decision and remit the matter to
the court that made the decision.
- (2) The decision of the appellate court upon an appeal
is final and conclusive.

Part 7 General

[s 267]

Division 1	General safeguards for things in possession of police service	1 2 3
93	Application of division	4
	This division applies to—	5
	(a) a prohibited item seized by a police officer from restricted premises under section 49(1)(c)(i) (a <i>thing</i>); or	6 7 8
	(b) fortification removed by a police officer from fortified premises under section 65 (also a <i>thing</i>).	9 10 11
94	Receipt for seized or removed thing	12
	(1) The police officer must, as soon as practicable after seizing the thing—	13 14
	(a) if the person from whom the thing is seized is present—give to the person a receipt for the thing; or	15 16 17
	(b) if the occupier of the premises is not present—leave a receipt for the thing in a conspicuous place.	18 19 20
	(2) The receipt may be for a single thing or for all things seized from the person or the premises.	21 22
	(3) Also, the receipt must describe the thing seized and include any other information required under the responsibilities code.	23 24 25
	(4) This section does not apply if the police officer reasonably believes—	26 27
	(a) there is no-one apparently in possession of the thing; or	28 29
	(b) the thing has been abandoned; or	30

(c) the thing has no value other than as evidence of the commission of an offence.	1 2
(5) In this section—	3
<i>responsibilities code</i> see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	4 5
<i>seize</i> includes remove.	6
95 Responsibilities of police officer taking possession of thing	7 8
(1) The police officer must ensure the thing is given to an appropriate property officer or delivered to a property point that is appropriate in the circumstances, as soon as practicable, unless—	9 10 11 12
(a) the thing is earlier returned, destroyed or disposed of under this Act; or	13 14
(b) it is necessary to keep the thing for use during questioning or for an investigative procedure involving the thing.	15 16 17
(2) If the police officer keeps a thing under subsection (1)(b), the police officer must deliver the thing to an appropriate property officer or property point as soon as practicable after the reason for keeping the thing ends.	18 19 20 21 22
(3) Until the thing is delivered to the property officer or property point, the police officer is responsible for the safe keeping of the thing.	23 24 25
(4) In this section—	26
<i>property officer</i> see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	27 28
<i>property point</i> see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	29 30

Division 2	Miscellaneous	31
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96	Delegation by commissioner	1
(1)	The commissioner may delegate a function of the commissioner under this Act to a police officer.	2 3
(2)	A delegation of a power of the commissioner under subsection (1) may permit the subdelegation of the power to a police officer.	4 5 6
(3)	In this section— <i>function</i> includes power.	7 8
97	Protection from liability	9
(1)	A member of the police service does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.	10 11 12
(2)	If subsection (1) prevents a civil liability attaching to a member of the police service, the liability attaches instead to the State.	13 14 15
(3)	In this section— <i>member of the police service</i> means a member of the police service under the <i>Police Service Administration Act 1990</i> .	16 17 18 19
98	Review of Act	20
(1)	This section applies if the Minister appoints, under the Criminal Code, section 736, a retired judge (the <i>reviewer</i>) to review the operation of the consorting provisions.	21 22 23 24
(2)	The Minister must also appoint the reviewer to—	25
(a)	review the operation of this Act, other than part 2; and	26 27
(b)	prepare, and give the Minister, a written report on the outcome of the review.	28 29
(3)	The terms of reference are to be decided by the	30

-
- Minister. 1
- (4) Without limiting subsection (3), the terms of 2
reference for the review must state the following 3
matters— 4
- (a) the object of the review is for the reviewer to 5
decide whether this Act, other than part 2, is 6
meeting the objects of this Act; 7
- (b) if the reviewer decides this Act, other than 8
part 2, is not meeting the objects of this Act, 9
the reviewer must recommend the 10
amendments to the provisions the reviewer 11
considers necessary to improve the 12
effectiveness of the provisions in meeting 13
the objects; 14
- (c) in conducting the review, the reviewer must 15
consider the information contained in the 16
register of enforcement acts about the 17
exercise of powers under this Act; 18
- (d) in conducting the review, the reviewer must 19
consider whether any demographic has been 20
disproportionately or adversely affected by 21
this Act, other than part 2. 22
- Examples of a demographic—* 23
- Aboriginal people, Torres Strait Islanders, 24
homeless people, drug dependent people 25
- (5) The reviewer has access to, and the commissioner 26
may disclose to the reviewer, the information 27
mentioned in subsection (4)(c) despite any other 28
law. 29
- (6) The Minister must, within 14 sitting days after 30
receiving the reviewer's report for the review, 31
table a copy of the report in the Legislative 32
Assembly. 33
- (7) In this section— 34
- consorting provisions***, see the Criminal Code, 35
-

[s 267]

section 736(5).	1
<i>register of enforcement acts</i> see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	2 3 4
99 Approved forms	5
(1) A form may be approved for use under this Act.	6
(2) The form may be approved by any of the following—	7 8
(a) the chief executive (magistrates court);	9
(b) the commissioner;	10
(c) the chief executive.	11
(3) In this section—	12
<i>chief executive (magistrates court)</i> means the chief executive of the department in which the <i>Magistrates Courts Act 1921</i> is administered.	13 14 15
100 Regulation-making power	16
The Governor in Council may make regulations under this Act.	17 18
Schedule 1 Dictionary	19
section 3	20
<i>appellate court</i> , for part 6, division 4, see section 87.	21 22
<i>associate</i> , of a recognised offender, means a person to whom an official warning about the recognised offender has been given under the <i>Police Powers and Responsibilities Act 2000</i> ,	23 24 25 26

section 53BAC.	1
<i>at</i> premises or a place, includes in or on the	2
premises or place.	3
commissioned officer means any police officer of	4
or above the rank of inspector.	5
commissioner means the commissioner of the	6
police service.	7
control order —	8
(a) means a control order under the <i>Penalties</i>	9
<i>and Sentences Act 1992</i> , part 9D, division 3,	10
subdivision 1; and	11
(b) includes a registered corresponding control	12
order under the <i>Penalties and Sentences Act</i>	13
<i>1992</i> .	14
court means a Magistrates Court.	15
criminal history , of a person, means—	16
(a) every conviction of the person for an	17
offence, in Queensland or elsewhere, and	18
whether before or after the commencement	19
of this Act, including a conviction—	20
(i) for which the rehabilitation period	21
under the <i>Criminal Law</i>	22
<i>(Rehabilitation of Offenders) Act 1986</i>	23
had expired under that Act; and	24
(ii) that is not revived as prescribed by	25
section 11 of that Act; and	26
(b) every charge made against the person for an	27
offence, in Queensland or elsewhere, and	28
whether before or after the commencement	29
of this Act.	30
criminal organisation see the <i>Penalties and</i>	31
<i>Sentences Act 1992</i> , section 161O.	32
disorderly activity see section 33.	33

[s 267]

drugs means a controlled substance or a dangerous drug under the <i>Drugs Misuse Act 1986</i> .	1 2
enforcement action see section 65(1).	3
enter premises or a place, includes re-enter the premises or place.	4 5
evidence of the commission of an offence see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	6 7 8
explosive see the <i>Explosives Act 1999</i> , schedule 2.	9
extended period , for part 4, division 3, see section 43(1).	10 11
extension order , for part 4, division 3, see section 43(1).	12 13
firearm see the <i>Weapons Act 1990</i> , schedule 2.	14
fortification , of premises, see section 56.	15
fortification removal order means a fortification removal order made for premises under section 60.	16 17 18
fortified premises means premises for which a fortification removal order is in force.	19 20
initial period , for part 4, division 3, see section 42(1).	21 22
liquor see the <i>Liquor Act 1992</i> , section 4B.	23
net proceed , for part 5, division 4, see section 71(7).	24 25
occupier , of premises, includes a lessee or sublessee of the premises.	26 27
owner , of premises, includes a person who—	28
(a) holds any legal or equitable estate or interest in the premises; or	29 30
(b) is entitled to receive, or if the premises were leased, would be entitled to receive, the	31 32

rents and profits of an interest in the premises.	1 2
participant , in a criminal organisation, see the <i>Penalties and Sentences Act 1992</i> , section 161P.	3 4
personal service means service under the <i>Uniform Civil Procedure Rules 1999</i> , rule 106.	5 6
place see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	7 8
police service means the Queensland Police Service.	9 10
possession includes custody and control.	11
premises includes—	12
(a) a building or structure, or part of a building or structure, of any type; and	13 14
(b) a group of buildings or structures, or part of a group of buildings or structures, of any type; and	15 16 17
(c) the land or water where a building or structure, or a group of buildings or structures, is situated; and	18 19 20
(d) a vehicle and a caravan; and	21
(e) a tent or cave; and	22
(f) premises held under 2 or more titles or owners.	23 24
prescribed place see section 33.	25
prohibited item see section 33.	26
public notice , in relation to an application or an order under this Act, means public notice under section 82.	27 28 29
public safety order means a public safety order under section 17 or 27.	30 31
QPS website means the website used by the	32

[s 267]

commissioner to provide public access to information about matters relating to this Act.	1 2
recognised offender see the Criminal Code, section 77.	3 4
respondent —	5
(a) for part 3, division 2—see section 17(1) and (2); or	6 7
(b) for part 3, division 3—see section 25(1) and (2); or	8 9
(c) for part 4, division 2—see section 35(1); or	10
(d) for part 4, division 3—see section 44(1); or	11
(e) for part 5—see section 59(1).	12
responsible person , for part 5, division 4, see section 70.	13 14
restricted premises , for part 4, see section 33.	15
restricted premises order means a restricted premises order under section 36.	16 17
search warrant see the <i>Police Powers and Responsibilities Act 2000</i> , section 150(1).	18 19
senior police officer means a police officer of or above the rank of sergeant.	20 21
serious criminal activity see the <i>Penalties and Sentences Act 1992</i> , section 161N.	22 23
stop and desist notice see section 76(1).	24
vehicle see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	25 26

Part 18	Amendment of Peace and Good Behaviour Regulation 2010	1 2
Clause 268	Regulation amended	3
	This part amends the <i>Peace and Good Behaviour Regulation 2010</i> .	4 5
	<i>Note—</i>	6
	See also the amendments in schedule 1.	7
Clause 269	Insertion of new s 11A	8
	After section 11—	9
	<i>insert—</i>	10
	11A Places that are prescribed places—Act, s 41	11
	For section 41(1) of the Act, the following places are declared to be prescribed places—	12 13
	<ul style="list-style-type: none">• 11 Frodsham Street, Albion• shop 5/1 Thorsborne Street, Beenleigh• sheds 13 and 14/6 Enterprise Street, Boyne Island• shed 14/136 Aumuller Street, Bungalow• 1/16 Ern Harley Drive, Burleigh Heads• 30 Berkeley Court, Caboolture• 104 Spence Street, Cairns• shed 1/5 Garema Street, Cannonvale• 31 Selhurst Street, Coopers Plains• unit 7/12 Hayter Street, Currumbin Waters• 41 Cotton View Road, Emerald• 11 Greer Lane, Eumundi• unit 3/31 Tradelink Drive, Hillcrest	14 15 16 17 18 19 20 21 22 23 24 25 26 27

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• unit 5/27-31 Pound Street, Kingaroy	1
• 15–17 Avian Street, Kunda Park	2
• unit 5/1 Chain Street, Mackay	3
• 4 Keats Street, Mackay	4
• 4 Ellen Street, Moorooka	5
• 31 Unwin Street, Moorooka	6
• 1 Zena Street, Mt Isa	7
• 54 Price Street, Nambour	8
• unit 5/144 Eumundi Noosa Road, Noosaville	9 10
• 2 Millchester Road, Queenton	11
• 26252 Peak Downs Highway, Racecourse	12
• 36 East Lane, Rockhampton	13
• 68 Kerema Street, Roseneath	14
• unit 2/8 Proprietary Drive, Tingalpa	15
• 391 Montague Road, West End	16
• shed 1A/13 Industrial Avenue, Yeppoon	17

Part 19	Amendment of Penalties and Sentences Act 1992	18 19
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Clause 270	Act amended	20
	This part amends the <i>Penalties and Sentences Act 1992</i> .	21
	<i>Note—</i>	22
	See also the amendments in schedule 1.	23

Clause 271	Amendment of s 3 (Purposes)	24
	(1) Section 3—	25

insert—

(ba) encouraging particular offenders to
cooperate with law enforcement agencies in
proceedings or investigations about major
criminal offences; and

(2) Section 3(ba) to (i)—

renumber as section 3(c) to (j).

Clause 272 Amendment of s 4 (Definitions)

(1) Section 4, definitions *court* and *prescribed offence—*

omit.

(2) Section 4—

insert—

benefit, for part 9D, see section 161N.

commissioner, for part 9D, see section 161N.

control order, for part 9D, see section 161N.

corresponding control order, for part 9D, see
section 161N.

court—

(a) for part 2A—see section 15AA; or

(b) for part 9D, division 3, subdivision 5—see
section 161ZV.

criminal organisation see section 161O.

honorary member, of an organisation, for part
9D, see section 161N.

major criminal offence see section 161S(5).

office holder, of an organisation, for part 9D, see
section 161N.

participant, in a criminal organisation, see section
161P.

[s 273]

<i>prescribed offence</i> —	1
(a) for part 5, division 2, subdivision 2—see section 108A; or	2 3
(b) for part 9D—see section 161N.	4
<i>prospective member</i> , of an organisation, for part 9D, see section 161N.	5 6
<i>registered corresponding control order</i> , for part 9D, see section 161N.	7 8
<i>registrar</i> , for part 9D, division 3, subdivision 5, see section 161ZV.	9 10
<i>respondent</i> , for part 9D, division 3, subdivision 5, see section 161ZY(1)(b).	11 12
<i>senior police officer</i> , for part 9D, see section 161N.	13 14
<i>serious criminal activity</i> , for part 9D, see section 161N.	15 16
<i>serious organised crime circumstance of aggravation</i> see section 161Q.	17 18
(3) Section 4, definition <i>Crown prosecutor</i> , ‘, for parts 3A and 3B,’—	19 20
<i>omit</i> .	21
(4) Section 4, definition <i>prosecutor</i> , ‘3A and 3B’—	22
<i>omit, insert</i> —	23
3A, 3B and 9D	24

Clause 273	Amendment of s 9 (Sentencing guidelines)	25
(1)	Section 9(2)—	26
	<i>insert</i> —	27
	(ga) without limiting paragraph (g), whether the offender was a participant in a criminal organisation—	28 29 30

[s 274]

- (i) at the time the offence was committed; 1
 - or 2
 - (ii) at any time during the course of the 3
 - commission of the offence; and 4
- (2) Section 9(6A)(d), ‘or 228D’— 5
- omit, insert—* 6
- , 228D, 228DA, 228DB or 228DC 7
- (3) Section 9— 8
- insert—* 9
- (7A) Also, the principles mentioned in subsection 10
- (2)(a) do not apply to the sentencing of an 11
- offender under part 9D, division 2. 12

- Clause 274 Amendment of s 15 (Information or submissions for sentence)** 13
- Section 15— 14
- insert—* 15
- (1A) Also, without limiting subsection (1), in imposing 17
- a sentence on an offender, a court may receive any 18
- information, or a sentencing submission made by 19
- a party to the proceedings, that the court considers 20
- appropriate to enable it to decide— 21
- (a) whether it may make a control order for the 22
- offender under part 9D, division 3; or 23
- (b) the appropriate conditions of a control order 24
- it must, or may, make for the offender under 25
- part 9D, division 3. 26

- Clause 275 Amendment of s 160 (Definitions for div 3)** 27
- Section 160, definition *parole eligibility date*, ‘160B(2)’— 28
- omit, insert—* 29

[s 276]

	160B(2) or (5)	1
Clause 276	Amendment of s 160A (Application of ss 160B–160D)	2
(1)	Section 160A(4), examples, second dot point—	3
	<i>omit.</i>	4
(2)	Section 160A(5)(a), from ‘181(2)’—	5
	<i>omit, insert—</i>	6
	181(2), (2A) or (2B), 181A, 182(2) or (2A),	7
	182A(3) or (3A), 183(2) or (2B) or 185B (each a	8
	relevant provision); and	9
Clause 277	Insertion of new s 160AA	10
	After section 160A—	11
	<i>insert—</i>	12
	160AA Reduction of minimum period of imprisonment for particular offenders	13
		14
(1)	This section applies if—	15
(a)	a court is imposing a term of imprisonment	16
	on an offender for a prescribed offence	17
	committed with a serious organised crime	18
	circumstance of aggravation; and	19
(b)	either—	20
(i)	the term of imprisonment imposed is	21
	imprisonment for life; or	22
(ii)	the offender is serving a term of	23
	imprisonment for life; and	24
(c)	section 13A or 13B applies for the sentence.	25
	<i>Note—</i>	26
	See section 161S in relation to the application of	27
	sections 13A and 13B for the sentencing of an	28
	offender mentioned in paragraph (a).	29

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- (2) The court may fix a date under section 160C or 160D that—
 - (a) reduces the minimum period of imprisonment the offender must otherwise serve under the *Corrective Services Act 2006*, section 181(2A) or (2B) or 181A(3) or (4); but
 - (b) does not reduce the minimum period of imprisonment the offender must serve under section 181(2) or 181A(2) of that Act.
- (3) Also, no date fixed by the court as mentioned in subsection (2) can reduce the minimum period of imprisonment the offender must serve under the *Corrective Services Act 2006*, section 181(2) or 181A(2).
- (4) This section applies despite section 160A(5).
- (5) In this section—
prescribed offence see section 161N.

Clause 278 Amendment of s 160B (Sentence of 3 years or less and not a serious violent offence or sexual offence)

Section 160B—

insert—

- (5) Despite subsections (2) and (3), the court must fix the date the offender is eligible for parole under subsection (6) if—
 - (a) the offender is sentenced to a term of imprisonment under section 161R(2); and
 - (b) in imposing the base component of the sentence under that section, the court would, apart from this subsection, be required to fix a date for the offender under subsection (2) or (3).

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	<i>Note—</i>	1
	Section 161R(2)(a) requires the court to impose a sentence of imprisonment for the offence of which the offender is convicted under the law apart from part 9D.	2 3 4 5
(6)	The date the offender is eligible for parole is the day that is worked out by adding the relevant further period to the date the court would otherwise fix for the offender under subsection (2) or (3) if the term of imprisonment imposed on the offender under section 161R(2) consisted only of the base component of the sentence imposed under that section.	6 7 8 9 10 11 12 13
(7)	In this section— <i>relevant further period</i> , for an offender sentenced to a term of imprisonment under section 161R(2), means the period of the mandatory component of the sentence imposed on the offender under that section.	14 15 16 17 18 19
Clause 279	Insertion of new pt 9D	20
	After section 161M—	21
	<i>insert—</i>	22
	Part 9D	23
	Serious and organised crime	24
	Division 1	25
	Preliminary	
	161N Definitions for part	26
	In this part—	27
	<i>benefit</i> includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person	28 29 30

whether or not it has any inherent or tangible value, purpose or attribute.	1 2
commissioner means the commissioner of the police service.	3 4
control order means an order made under division 3, subdivision 1.	5 6
corresponding control order means an order prescribed to be a corresponding control order under section 161ZW.	7 8 9
criminal organisation see section 161O.	10
honorary member , of an organisation, includes a person who is a member of the organisation, but has not paid a fee to be a member of the organisation.	11 12 13 14
office holder , of an organisation, means—	15
(a) a person who is a president, vice-president, treasurer, secretary, director or another office holder or a shareholder of the organisation; or	16 17 18 19
(b) a person who (whether by words or conduct, or in any other way) asserts, declares or advertises that the person holds a position of authority of any kind within the organisation; or	20 21 22 23 24
(c) a person who is in control of all or a substantial part of the activities of the organisation; or	25 26 27
(d) if the organisation appoints a person to be in charge of an activity of the organisation or keep order at a meeting or gathering of the organisation—the person appointed.	28 29 30 31
<i>Examples—</i>	32
• a person appointed to administer a child exploitation material website	33 34

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• a person appointed to supervise the call centre of a cold-call investment fraud operation	1 2
• a person appointed as the sergeant-at-arms of a motorcycle club	3 4
<i>participant</i> , in a criminal organisation, see section 161P.	5 6
<i>prescribed offence</i> means an offence against a provision mentioned in schedule 1C.	7 8
<i>prospective member</i> , of an organisation, means a person who has started, but not completed, the process of becoming a member of the organisation.	9 10 11 12
<i>registered corresponding control order</i> means a corresponding control order that is registered under division 3, subdivision 5.	13 14 15
<i>senior police officer</i> means a police officer of or above the rank of sergeant.	16 17
<i>serious criminal activity</i> means conduct constituting an indictable offence for which the maximum penalty is at least 7 years imprisonment.	18 19 20 21
<i>serious organised crime circumstance of aggravation</i> see section 161Q.	22 23

161O Meaning of ***criminal organisation*** 24

- (1) A ***criminal organisation*** is a group of 3 or more persons, whether arranged formally or informally— 25
26
27
 - (a) who engage in, or have as their purpose (or 28
1 of their purposes) engaging in, serious 29
criminal activity; and 30
 - (b) who, by their association, represent an 31
unacceptable risk to the safety, welfare or 32
order of the community. 33

-
- (2) For subsection (1), it does not matter whether— 1
- (a) the group of persons— 2
- (i) has a name; or 3
- (ii) is capable of being recognised by the 4
public as a group; or 5
- (iii) has an ongoing existence as a group 6
beyond the serious criminal activity in 7
which the group engages or has as a 8
purpose; or 9
- (iv) has a legal personality; or 10
- (b) the persons comprising the group— 11
- (i) have different roles in relation to the 12
serious criminal activity; or 13
- Example—* 14
- Of the persons comprising a 15
methamphetamine syndicate, different 16
persons are responsible for supplying the 17
cold and flu tablets, extracting the 18
pseudoephedrine from the tablets, supplying 19
other necessary ingredients, and cooking the 20
ingredients to produce methamphetamine. 21
- (ii) have different interests in, or obtain 22
different benefits from, the serious 23
criminal activity; or 24
- Example—* 25
- Of the 3 persons comprising a group that 26
engages in serious criminal activity, 1 27
person obtains the profit from the activity 28
and pays the other 2 persons an amount for 29
engaging in the activity. 30
- (iii) change from time to time. 31
- Example—* 32
- a networked online child exploitation forum 33
- (3) In this section— 34
- engage**, in serious criminal activity, includes each 35
-

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- | | |
|---------------------------------------------|---|
| of the following— | 1 |
| (a) organise, plan, facilitate, support, or | 2 |
| otherwise conspire to engage in, serious | 3 |
| criminal activity; | 4 |
| (b) obtain a material benefit, directly or | 5 |
| indirectly, from serious criminal activity. | 6 |

161P Meaning of *participant* 7

- | | |
|------------------------------------------------------|----|
| (1) A person is a <i>participant</i> , in a criminal | 8 |
| organisation, if— | 9 |
| (a) the person has been accepted as a member | 10 |
| of the organisation and has not ceased to be | 11 |
| a member of the organisation; or | 12 |
| (b) the person is an honorary member of the | 13 |
| organisation; or | 14 |
| (c) the person is a prospective member of the | 15 |
| organisation; or | 16 |
| (d) the person is an office holder of the | 17 |
| organisation; or | 18 |
| (e) the person identifies himself or herself in | 19 |
| any way as belonging to the organisation; or | 20 |

Examples— 21

- | | |
|--------------------------------------------------|----|
| • using a theme-based naming convention or | 22 |
| icon to establish a screen name or profile for | 23 |
| an online child exploitation forum | 24 |
| • wearing or displaying the patches or insignia, | 25 |
| or a version of the patches or insignia, of a | 26 |
| criminal organisation | 27 |
| (f) the person's conduct in relation to the | 28 |
| organisation would reasonably lead | 29 |
| someone else to consider the person to be a | 30 |
| participant in the organisation. | 31 |

<i>Example of conduct for paragraph (f)—</i>	1
doing any of the following for a criminal	2
organisation involved in the production and sale of	3
cannabis—	4
• tending the cannabis plants	5
• packaging the cannabis for sale	6
• selling the cannabis	7
• laundering the profits from the sale of the	8
cannabis	9
• managing the day-to-day business of the	10
organisation	11
(2) For subsection (1)(a), a person may be accepted as	12
a member of a criminal organisation—	13
(a) informally; or	14
(b) through a process set by the organisation,	15
including, for example, by paying a fee or	16
levy.	17
161Q Meaning of <i>serious organised crime</i>	18
<i>circumstance of aggravation</i>	19
(1) It is a circumstance of aggravation (a <i>serious</i>	20
<i>organised crime circumstance of aggravation</i>)	21
for a prescribed offence of which an offender is	22
convicted that, at the time the offence was	23
committed, or at any time during the course of the	24
commission of the offence, the offender—	25
(a) was a participant in a criminal organisation;	26
and	27
(b) knew, or ought reasonably to have known,	28
the offence was being committed—	29
(i) at the direction of a criminal	30
organisation or a participant in a	31
criminal organisation; or	32
(ii) in association with 1 or more persons	33
who were, at the time the offence was	34

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- committed, or at any time during the 1
course of the commission of the 2
offence, participants in a criminal 3
organisation; or 4
- (iii) for the benefit of a criminal 5
organisation. 6
- (2) For subsection (1)(b), an offence is committed for 7
the benefit of a criminal organisation if the 8
organisation obtains a benefit, directly or 9
indirectly, from the commission of the offence. 10
- (3) To remove any doubt, it is declared that a criminal 11
organisation mentioned in subsection (1)(b) need 12
not be the criminal organisation in which the 13
offender was a participant. 14

Division 2 Term of imprisonment for 15
particular offenders 16

161R Court must impose term of imprisonment 17

- (1) This section applies to the sentencing of an 18
offender convicted of a prescribed offence 19
committed with a serious organised crime 20
circumstance of aggravation. 21
- (2) The court must impose on the offender a term of 22
imprisonment consisting of the following 23
components— 24
 - (a) a sentence of imprisonment for the 25
prescribed offence imposed under the law 26
apart from this part and without regard to 27
the following (the *base component*)— 28
 - (i) the sentence that must be imposed on 29
the offender under paragraph (b); 30
 - (ii) the control order that must be made for 31
the offender under section 161V; 32

-
- (b) (other than if a sentence of life imprisonment is imposed as the base component or the offender is already serving a term of life imprisonment) a sentence of imprisonment (the **mandatory component**) for the lesser of the following periods—
- (i) 7 years;
- (ii) the period of imprisonment provided for under the maximum penalty for the prescribed offence.
- Note—*
- See the *Corrective Services Act 2006*, sections 181(2A) and (2B) and 181A(3) and (4) in relation to the parole eligibility date of an offender whose sentence under this subsection does not include a mandatory component.
- (3) The mandatory component—
- (a) must be ordered to be served cumulatively with the base component; and
- (b) despite any other provision of this Act under which another sentence may be ordered, must be ordered to be served wholly in a corrective services facility; and
- (c) must not be mitigated or reduced under this Act or another Act or any law.
- (4) Also, if the offender is serving, or has been sentenced to serve, imprisonment for another offence, the mandatory component must be ordered to be served cumulatively with the imprisonment for the other offence.
- (5) Despite subsection (3)(a), if the base component does not require the offender to immediately serve a sentence of imprisonment in a corrective services facility—

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- (a) the offender is to immediately begin to serve the mandatory component; and 1
2
 - (b) the base component is to have effect, so far as practicable, at the end of the mandatory component. 3
4
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- (6) If the court is sentencing the offender for more than 1 prescribed offence committed with a serious organised crime circumstance of aggravation, the court must impose the mandatory component for only 1 of the offences. 6
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- (7) When deciding which prescribed offence to use for imposing the mandatory component, the court must choose the offence that will result in the offender serving the longest period of imprisonment available under this Act or another Act for the offences. 11
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161S Cooperation with law enforcement agencies 17

- (1) Subject to subsections (2) and (3), sections 13A and 13B apply for the sentencing of an offender who is convicted of a prescribed offence committed with a serious organised crime circumstance of aggravation. 18
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- (2) For section 13A, an offender mentioned in subsection (1) is taken to have undertaken to cooperate with law enforcement agencies in a proceeding about an offence, including a confiscation proceeding, only if— 23
24
25
26
27
 - (a) the offender has undertaken to cooperate with law enforcement agencies in a proceeding about a major criminal offence; and 28
29
30
31
 - (b) the court is satisfied the cooperation will be of significant use in a proceeding about a major criminal offence. 32
33
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- (3) For section 13B, an offender mentioned in subsection (1) is taken to have significantly cooperated with a law enforcement agency in its investigations about an offence or a confiscation proceeding only if—
 - (a) the offender has significantly cooperated with a law enforcement agency in its investigations about a major criminal offence; and
 - (b) the court is satisfied the cooperation has been, is or will be of significant use to the law enforcement agency or another law enforcement agency in its investigations about a major criminal offence.
- (4) This section applies despite section 161R(3) or (4).
- (5) In this section—

major criminal offence means an indictable offence for which the maximum penalty is at least 5 years imprisonment.

Division 3 Control orders 21

Subdivision 1 Making of orders 22

161T Court may make control order whether or not conviction recorded or other order made 23 24

A court may make a control order under this subdivision for an offender whether or not it records a conviction or makes another order for the offender under this Act or another Act. 25
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27
28

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161U Conditions

- | | |
|-----------------------------------------------------|----|
| | 1 |
| (1) A control order for an offender may impose— | 2 |
| (a) the conditions the court considers | 3 |
| appropriate to protect the public by | 4 |
| preventing, restricting or disrupting the | 5 |
| offender's involvement in serious criminal | 6 |
| activity; and | 7 |
| (b) the conditions the court considers necessary | 8 |
| to enforce the order. | 9 |
| <i>Example—</i> | 10 |
| a condition requiring the offender to advise a law | 11 |
| enforcement officer if the offender changes | 12 |
| address | 13 |
| (2) Without limiting subsection (1)(a), a condition | 14 |
| may— | 15 |
| (a) prohibit the offender from— | 16 |
| (i) associating with a stated person or a | 17 |
| person of a stated class, including a | 18 |
| person with whom the offender has a | 19 |
| personal relationship; or | 20 |
| (ii) entering or being in the vicinity of a | 21 |
| stated place or a place of a stated class; | 22 |
| or | 23 |
| (iii) acquiring or possessing a stated thing | 24 |
| or a thing of a stated class; or | 25 |
| (b) restrict the means by which the offender | 26 |
| communicates with other persons; or | 27 |
| (c) require the offender— | 28 |
| (i) to give a police officer or another stated | 29 |
| person stated information by a stated | 30 |
| time or at stated intervals; or | 31 |
| <i>Example of stated information—</i> | 32 |
| the offender's computer passwords | 33 |

-
- (ii) to attend before a police officer or another stated person by a stated time or at stated intervals.
 - Example—*
 - attending before the officer in charge of a stated police station at weekly intervals
 - (3) The control order must require the offender, within 24 hours after the order takes effect, to deliver to the commissioner's custody at a stated police station anything the offender is prohibited from possessing under the order unless the offender has lawfully disposed of possession of the thing before the end of that period.
 - (4) Also, if the control order requires the person to give stated information, the order must require the information to be given in writing.
 - (5) Before imposing a condition mentioned in subsection (2)(a)(i) prohibiting the offender from associating with another person with whom the offender has a personal relationship, the court must consider the effect of the condition on the relationship and whether the prohibition should relate only to a particular class of activity or relate to activities generally.
 - (6) If the control order is made for the offender under section 161X, the order may not impose a condition other than a condition mentioned in subsection (1)(b) or (2)(a)(i) or (ii) or (b).
 - (7) The control order may not require the offender to—
 - (a) give information if giving the information—
 - (i) would disclose information that is the subject of legal professional privilege; or
 - (ii) would be a contravention of another Act; or
-

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- (b) if the offender is an individual—give information relating to an offence with which the offender is charged. 1
2
3
- Note—* 4
- See section 161ZH for restrictions on the admissibility in a proceeding of information given under a control order. 5
6
7
- (8) Subsections (6) and (7) apply despite subsection (1). 8
9
- (9) In this section— 10
- information* includes a document. 11

161V When court must make order 12

- (1) A court sentencing an offender for a prescribed offence committed with a serious organised crime circumstance of aggravation must make a control order for the offender. 13
14
15
16
- (2) However, if section 13A or 13B applies for the sentencing of the offender, the court may, but need not, make a control order for the offender. 17
18
19
- Note—* 20
- See section 161S in relation to the application of sections 13A and 13B to the sentencing of an offender mentioned in subsection (1). 21
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23

161W When court may make order—offender who was participant in criminal organisation 24 25

- (1) A court sentencing an offender for an indictable offence may make a control order for the offender if— 26
27
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- (a) section 161R does not apply to the sentencing of the offender; and 29
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- (b) the court is satisfied the offender was, at the time the offence was committed, or at any 31
32

-
- time during the course of the commission of 1
the offence, a participant in a criminal 2
organisation; and 3
- (c) the court considers that making the order is 4
reasonably necessary to protect the public 5
by preventing, restricting or disrupting the 6
offender's involvement in serious criminal 7
activity. 8

Notes— 9

- 1 See section 15 in relation to the information and 10
sentencing submissions the court may receive for 11
sentencing the offender. 12
- 2 See also the *Evidence Act 1977*, section 132C. 13
- (2) For subsection (1)(b), the offender's participation 14
in a criminal organisation need not be related to 15
the indictable offence for which the offender is 16
being sentenced. 17
- (3) A control order may be made under subsection (1) 18
on the court's own initiative or on an application 19
by the prosecutor. 20
- (4) If the prosecutor intends to make an application 21
under subsection (3), the prosecutor must inform 22
the court as soon as practicable after the offender 23
has been convicted of the indictable offence. 24
- (5) This section applies whether the offender is 25
convicted of the indictable offence summarily or 26
on indictment. 27

**161X When court may make order—offender 28
convicted of habitual consorting 29**

- (1) A court sentencing an offender for an offence 30
against the Criminal Code, section 77B may make 31
a control order for the offender if— 32
- (a) section 161R does not apply to the 33
sentencing of the offender; and 34

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- (b) the court considers that making the order is reasonably necessary to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity. 1
2
3
4
5
- (2) A control order may be made under subsection (1) on the court's own initiative or on an application by the prosecutor. 6
7
8

161Y When court may make order—offender convicted of contravening order 9
10

- (1) A court sentencing an offender for an offence against section 161ZI may make a control order for the offender if the court considers that making the order is reasonably necessary to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity. 11
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- (2) A control order may be made under subsection (1) on the court's own initiative or on application by the prosecutor. 18
19
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161Z Control order to be explained 21

- (1) Before making a control order for an offender, the court must explain, or cause to be explained, to the offender— 22
23
24
 - (a) the purpose and effect of the order; and 25
 - (b) what may follow if the offender contravenes the order; and 26
27
 - (c) that the order may be amended or revoked on the application of the offender, a Crown prosecutor, a senior police officer or an authorised corrective services officer. 28
29
30
31
- (2) The explanation must be made in language or in a way likely to be readily understood by the 32
33

offender. 1

161ZA Offender subject to existing control order 2

- (1) This section applies if— 3
- (a) the court must, or may, make a control order 4
for an offender under this subdivision; and 5
 - (b) the offender is subject to a control order (an 6
existing control order). 7
- (2) In making a further control order for the offender 8
as mentioned in subsection (1)(a), the court must 9
have regard to the conditions imposed on the 10
offender under the existing control order. 11

161ZB Duration 12

- (1) A control order for an offender must state the day 13
the order takes effect. 14
- (2) The stated day must be— 15
- (a) if the sentence imposed on the offender 16
when the control order is made requires the 17
offender to immediately serve a term of 18
imprisonment in a corrective services 19
facility, or the offender is already in custody 20
in a corrective services facility for another 21
offence—the day the offender is released 22
from custody; or 23
 - (b) otherwise—the day the control order is 24
made. 25
- (3) Unless it is sooner revoked under subdivision 2, a 26
control order remains in force until the day stated 27
in the order, which must not be more than— 28
- (a) for an order made under section 161X—2 29
years after the order takes effect; or 30

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(b) otherwise—5 years after the order takes effect.	1 2
(4) However, the period applying for a control order under subsection (3)(a) or (b) is extended by, and the order remains in force for, the following periods—	3 4 5 6
(a) any period for which the order is suspended under section 161ZC;	7 8
(b) any period by which the order is extended under section 161ZI(5)(a).	9 10
(5) For subsection (2)(a), an offender is in custody in a corrective services facility if the offender—	11 12
(a) is serving imprisonment in the facility; or	13
(b) is detained on remand in the facility.	14
161ZC Effect if offender is detained on remand or imprisoned	15 16
(1) This section applies if, while a control order is in force for an offender, the offender is detained in custody on remand or is serving a term of imprisonment.	17 18 19 20
(2) The control order is suspended for the period the offender is detained or imprisoned.	21 22
Subdivision 2 Amendment and revocation of orders	23 24
161ZD Application for amendment or revocation	25
(1) The following persons may apply, in the approved form, for the amendment or revocation of a control order—	26 27 28
(a) a Crown prosecutor;	29

-
- | | | |
|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| (b) | a senior police officer; | 1 |
| (c) | an authorised corrective services officer; | 2 |
| (d) | the person subject to the order. | 3 |
| (2) | The application may be made to— | 4 |
| (a) | a court of equivalent jurisdiction to the court
that made the control order; or | 5
6 |
| (b) | a court of higher jurisdiction, if the person
subject to the control order is before the
court. | 7
8
9 |
| (3) | An application under subsection (1) by the person
subject to the control order may be made only on
the ground that— | 10
11
12 |
| (a) | the person can no longer reasonably comply
with the order; and | 13
14 |
| (b) | the person's inability to comply with the
order is because of a material change in the
person's circumstances since— | 15
16
17 |
| (i) | if the order has previously been
amended under this subdivision—the
order was last amended; or | 18
19
20 |
| (ii) | otherwise—the order was made. | 21 |
| (4) | The application must be accompanied by— | 22 |
| (a) | any affidavit the applicant intends to rely on
at the hearing of the application; and | 23
24 |
| (b) | if the application is for the amendment of
the control order—a draft of the order the
applicant is seeking from the court. | 25
26
27 |
| (5) | If the applicant is not the person subject to the
control order, the applicant must give a copy of
the application, and any documents required to
accompany the application under subsection (4),
to the person subject to the order. | 28
29
30
31
32 |
| (6) | If the applicant is the person subject to the control | 33 |
-

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order, a proper officer of the court must give a
copy of the application, and any documents
required to accompany the application under
subsection (4), to the prosecuting authority.

(7) The applicant must give the documents under
subsection (5) or (6)—

- (a) as soon as practicable after the application is
filed; and
- (b) at least 21 days before the day on which the
application is to be heard.

(8) In this section—

prosecuting authority means—

- (a) if the prosecutor who appeared before the
court when the control order was made was
a police officer—the commissioner or a
person authorised to accept the application
on the commissioner’s behalf; or
- (b) if the prosecutor who appeared before the
court when the control order was made was
a Crown prosecutor—the director of public
prosecutions or a person authorised to
accept the application on the director’s
behalf.

161ZE Court may amend order or remit application

(1) A court may, on an application made to it under
section 161ZD for the amendment of a control
order, amend the order only if the court
considers—

- (a) the person subject to the order can no longer
reasonably comply with the order; and
- (b) if the applicant is the person subject to the
order, the person’s inability to comply with

-
- the order is because of a material change in the person's circumstances since—
- (i) if the order has previously been amended under this subdivision—the order was last amended; or
 - (ii) otherwise—the order was made; and
- (c) it is reasonable in all the circumstances to amend the order.
- (2) An order amending the control order takes effect when the order is made.
- (3) If the application is made under section 161ZD(2) to a court of higher jurisdiction than the court that made the control order for the person, the court of higher jurisdiction may, instead of deciding the application, remit the application to the court that made the control order or a court of equivalent jurisdiction to that court.

161ZF Court may revoke order

- (1) A court may, on an application made to it under section 161ZD for the revocation of a control order, revoke the order only if the court considers—
- (a) the person subject to the order can no longer reasonably comply with the order; and
 - (b) the person's inability to comply with the order is because of a material change in the person's circumstances since—
 - (i) if the order has been amended—the order was last amended; or
 - (ii) otherwise—the order was made; and
 - (c) it is reasonable in all the circumstances to revoke the order.
- (2) The order revoking the control order takes effect

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when the order is made.	1
161ZG Order amending or revoking control order to be given to interested persons	2 3
(1) This section applies if a court makes an order under section 161ZE or 161ZF (a <i>relevant order</i>) amending or revoking a control order.	4 5 6
(2) A proper officer of the court must immediately—	7
(a) reduce the relevant order to writing; and	8
(b) give a copy of the relevant order to—	9
(i) the person the subject of the control order that was amended or revoked by the relevant order; and	10 11 12
(ii) if the prosecutor who appeared before the court when the relevant order was made was a Crown prosecutor—the director of public prosecutions or a person authorised to accept the order on the director’s behalf; and	13 14 15 16 17 18
(iii) the commissioner or a person authorised to accept the order on the commissioner’s behalf; and	19 20 21
(iv) the chief executive (corrective services).	22 23
(3) Failure to comply with subsection (2) does not invalidate the order.	24 25
Subdivision 3 Restrictions on use of particular information	26 27
161ZH Restrictions	28
(1) This section applies to information given by a person in compliance with a condition of a control	29 30

-
- order, or registered corresponding control order, 1
that requires the person to give stated information. 2
- (2) The information is not admissible as evidence 3
against the person in a proceeding other than— 4
- (a) a proceeding against the person for an 5
offence against section 161ZI; or 6
- (b) a proceeding in which the person has 7
adduced the information. 8
- (3) In this section— 9
information includes a document. 10

Subdivision 4 Enforcement 11

161ZI Contravention of order 12

- (1) A person must not contravene a control order, or 13
a registered corresponding control order, made for 14
the person. 15
- Maximum penalty— 16
- (a) for a first offence in relation to the order—3 17
years imprisonment; or 18
- (b) for a later offence in relation to the order—5 19
years imprisonment. 20
- Note—* 21
- Under section 161Y, the court may also make a control 22
order for a person convicted of an offence against this 23
section. 24
- (2) An offence against subsection (1) is— 25
- (a) a misdemeanour, if the offence is a first 26
offence in relation to the control order or 27
registered corresponding control order; or 28

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- (b) a crime, if the offence is a later offence in relation to the control order or registered corresponding control order. 1
2
3
- (3) An offence is a later offence to an earlier offence if the person commits the offence after the person is convicted of the earlier offence. 4
5
6
- (4) For a control order, subsection (1) applies whether the contravention of the order happens in or outside Queensland. 7
8
9
- (5) Without limiting subsection (1), if a person contravenes a control order made for the person (an *existing control order*), the court may, instead of making a further control order for the person under section 161Y, amend the existing control order for the person by— 10
11
12
13
14
15
 - (a) extending the order by not more than— 16
 - (i) if the order was made under section 161X—2 years; or 17
18
 - (ii) otherwise—5 years; or 19
 - (b) imposing any further conditions the court could impose if a further control order were made for the person. 20
21
22
- (6) In a proceeding against a person for an offence against subsection (1), it is a defence for the person to prove that the person had a reasonable excuse for contravening the control order or the registered corresponding control order. 23
24
25
26
27
- (7) It is not a reasonable excuse for a person not to comply with a condition of a control order, or registered corresponding control order, requiring the person to give stated information that complying with the condition might tend to incriminate the person or expose the person to a penalty. 28
29
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-
- Note—* 1
- See section 161ZH for the restrictions applying to the 2
use of the stated information. 3
- (8) In a proceeding against a person for a 4
contravention of a non-association condition, it is 5
irrelevant whether or not the association related to 6
the commission or potential commission of an 7
offence. 8
- (9) In a proceeding against a person for a 9
contravention of a non-association condition that 10
has an exception about associating with a person 11
with whom the person subject to the control order, 12
or the registered corresponding control order, has 13
a personal relationship, it is for the person subject 14
to the order to prove that the person had a personal 15
relationship with the other person at the relevant 16
time. 17
- (10) A person does not commit an offence against 18
subsection (1) in relation to a control order, or a 19
registered corresponding control order, by 20
possessing a thing the person is prohibited from 21
possessing under the order unless the person is in 22
possession of the thing after the end of— 23
- (a) if the person is prohibited from possessing 24
the thing under the order as originally made 25
and the order takes effect when it is 26
made—24 hours after the order is made; or 27
- (b) if the person is prohibited from possessing 28
the thing under the order as originally 29
registered—24 hours after the order takes 30
effect; or 31
- (c) if the person is prohibited from possessing 32
the thing because of an amendment of the 33
order—24 hours after the amendment takes 34
effect. 35
- (11) In this section— 36
-

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non-association condition means—

- (a) a condition of a control order mentioned in section 161U(2)(a)(i), whether or not the condition includes an exception about associating with another person with whom the person subject to the control order has a personal relationship; or
- (b) a condition of a registered corresponding control order that corresponds to a condition mentioned in paragraph (a).

161ZJ Initial power to search and seize particular things

- (1) The power under this section—
 - (a) may only be exercised in relation to a person subject to a control order, or a registered corresponding control order, within 7 days after—
 - (i) for a control order that takes effect when it is made—the order is made; or
 - (ii) for a registered corresponding control order—a copy of the order is given to the person under section 161ZZA; and
 - (b) may only be exercised once for the premises occupied by the person or, if the person occupies 2 or more premises, once for each of the premises.
- (2) A police officer may with the help, and using the force, that is reasonably necessary—
 - (a) enter premises occupied by the person; and
 - (b) search for and seize anything the person is prohibited from possessing under the control order or the registered corresponding control order.

-
- (3) Before first entering the premises, the police officer must do, or make a reasonable attempt to do, the following—
- (a) locate the person;
 - (b) identify himself or herself to the person;
 - (c) tell the person—
 - (i) the purpose of the entry; and
 - (ii) that the police officer is permitted under this Act to enter the premises without the person's consent; and
 - (iii) about the police officer's powers under this section;
 - (d) give the person an opportunity to allow the police officer to enter the premises without using force.
- (4) In this section—
- enter*** includes re-enter.
- premises*** includes—
- (a) a building or structure, or part of a building or structure, of any type; and
 - (b) a group of buildings or structures, or part of a group of buildings or structures, of any type; and
 - (c) the land or water where a building or structure, or a group of buildings or structures, is situated; and
 - (d) a vehicle or caravan; and
 - (e) a tent or cave; and
 - (f) a boat; and
 - (g) an ocean-going vessel; and

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- (h) premises held under 2 or more titles or owners. 1
2

161ZK Things seized within the first 24 hours 3

- (1) This section applies if— 4
 - (a) a person possesses a thing the person is 5
prohibited from possessing under a control 6
order or a registered corresponding control 7
order; and 8
 - (b) a period of 24 hours has not passed since— 9
 - (i) for a control order that takes effect 10
when it is made—the order was made; 11
or 12
 - (ii) for a registered corresponding control 13
order—a copy of the order was given to 14
the person under section 161ZZA. 15
- (2) A police officer may seize the thing under section 16
161ZJ. 17
- (3) The seized thing must be— 18
 - (a) kept in the commissioner's custody while 19
the order remains in force; and 20
 - (b) returned to the person when the control 21
order stops having effect, if the person is 22
entitled to lawful possession of the thing at 23
that time. 24

161ZL Police powers for preventing contravention of control order 25 26

- (1) This section applies if a police officer reasonably 27
suspects an offence against section 161ZI has 28
been committed, is being committed, or is about 29
to be committed in relation to a control order or a 30
registered corresponding control order. 31

-
- (2) The police officer may exercise 1 or more of the following powers in relation to the person subject to the control order or registered corresponding control order—
- (a) if the order prohibits the person from associating with a stated person or a person of a stated class—require the person subject to the order to leave a place where the stated person or person of the stated class is present and not to return to the place within a stated reasonable time of not more than 24 hours;
- (b) if the order prohibits the person from entering or being in the vicinity of a stated place or a place of a stated class—require the person subject to the order to leave—
- (i) the stated place or a place of the stated class; or
- (ii) the vicinity of a place mentioned in subparagraph (i).
- (3) However, subsection (2) does not apply if requiring the person to leave the place may endanger the safety of the person or another person.
- (4) A requirement made under this section is taken to be a requirement made under the *Police Powers and Responsibilities Act 2000*.
- Note—*
- Failure to comply with a requirement made under this section is an offence against the *Police Powers and Responsibilities Act 2000*, section 791.
- (5) A person does not commit an offence against the *Police Powers and Responsibilities Act 2000*, section 791 if—
- (a) the person was required to do something under subsection (2); and
-

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(b)	the court is not satisfied the police officer, at the time of giving the direction, had the suspicion mentioned in subsection (1).	1 2 3
(6)	In this section— <i>place</i> see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	4 5 6
161ZM	Authorised corrective services officer may give direction	7 8
(1)	If a control order, or registered corresponding control order, for a person includes a condition requiring the person to comply with a reasonable direction given by an authorised corrective services officer about a stated matter, an authorised corrective services officer may give the person a reasonable direction about the stated matter.	9 10 11 12 13 14 15 16
(2)	In giving a direction under subsection (1), an authorised corrective services officer is subject to the directions of—	17 18 19
(a)	for a control order—the court that made the order; or	20 21
(b)	for a registered corresponding control order—the Supreme Court.	22 23
161ZN	Proceeding after order no longer in force	24
	A proceeding for a contravention of a control order, or a registered corresponding control order, may be taken, and the offender may be dealt with, under this subdivision for the contravention even if the order is no longer in force.	25 26 27 28 29

161ZO Charge must be heard and decided summarily on prosecution election	1 2
(1) This section applies to a charge before a Magistrates Court of an offence against section 161ZI.	3 4 5
(2) The charge must be heard and decided summarily if the prosecution elects to have the charge heard and decided summarily.	6 7 8
(3) This section is subject to section 161ZQ.	9
161ZP Constitution of Magistrates Court	10
A Magistrates Court that summarily deals with a charge under section 161ZO must be constituted by a magistrate.	11 12 13
161ZQ When Magistrates Court must abstain from jurisdiction	14 15
(1) A Magistrates Court must abstain from dealing summarily with a charge under section 161ZO if satisfied, at any stage, and after hearing any submissions by the prosecutor and the defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.	16 17 18 19 20 21 22 23
(2) If the court abstains from jurisdiction, the proceeding for the charge must be conducted as a committal proceeding.	24 25 26
161ZR Charge may be heard and decided where defendant arrested or served	27 28
Without limiting the places at which a charge may be heard summarily under section 161ZO, the charge may also be heard and decided at a place appointed for holding magistrates courts within	29 30 31 32

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the district in which the defendant was arrested on	1
the charge or served with the summons for the	2
charge under the <i>Justices Act 1886</i> .	3
161ZS Time for prosecution	4
If a Magistrates Court hears and decides a charge	5
summarily under section 161ZO, the Magistrates	6
Court has jurisdiction despite the time that has	7
elapsed from the time when the matter of	8
complaint of the charge arose.	9
161ZT Maximum penalty for offence dealt with	10
 summarily	11
(1) The maximum penalty that may be imposed on a	12
summary conviction for an offence against	13
section 161ZI is 3 years imprisonment.	14
(2) Subsection (1) does not limit section 161Y.	15
(3) However, in no case may a person be punished	16
more than if the offence had been dealt with on	17
indictment.	18
161ZU Appeals against decision to decide charge	19
 summarily	20
(1) This section applies if a person is summarily	21
convicted or sentenced under section 161ZO.	22
(2) The grounds on which the person may appeal	23
include that the Magistrates Court erred by	24
deciding the conviction or sentence summarily.	25
(3) The grounds on which the Attorney-General may	26
appeal against sentence include that the	27
Magistrates Court erred by deciding the sentence	28
summarily.	29
(4) On an appeal against a sentence relying on a	30
ground that the Magistrates Court erred by	31

proceeding summarily, the court deciding the 1
appeal may, if it decides to vary the sentence, 2
impose the sentence the court considers 3
appropriate up to the maximum sentence that 4
could have been imposed if the matter had been 5
dealt with on indictment. 6

Subdivision 5 Corresponding control 7 orders 8

161ZV Definitions for subdivision 9

In this subdivision— 10

court means the Supreme Court. 11

registrar means a registrar of the Supreme Court. 12

respondent see section 161ZY(1)(b). 13

161ZW Regulation may prescribe orders 14

A regulation may prescribe an order to be a 15
corresponding control order if the order— 16

(a) is made under a law of another State; and 17

(b) has the same or a similar effect as a control 18
order. 19

161ZX Application for registration of order 20

(1) The commissioner may apply to the registrar for 21
the registration of a corresponding control order. 22

(2) The application must be accompanied by — 23

(a) an affidavit that includes or is accompanied 24
by— 25

(i) a copy of the corresponding control 26
order; and 27

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- (ii) enough information to enable the registrar to find that the order is a corresponding control order that is in force; and
 - (b) any other affidavit the commissioner intends to rely on at the hearing of the application.
 - (3) Also, the application must state—
 - (a) whether the commissioner believes it is necessary for the corresponding control order to be adapted or modified for its effective operation in Queensland; and
 - (b) if so, the details of the adaptation or modification the commissioner believes is necessary.
- Example—*
- A condition of a corresponding control order is expressed in terms of legislation of the State in which the order was made. The application may state that the commissioner believes it is necessary for the order to be modified to refer to Queensland legislation.

161ZY Registration of order

- (1) This section applies if the registrar is satisfied—
 - (a) the corresponding control order is in force; and
 - (b) the corresponding control order was served, or was taken to be served, on the person for whom it was made (the *respondent*) under the law of the State in which the order was made.
- (2) The registrar must register the corresponding control order, whether or not the respondent is given notice of the application to the registrar.
- (3) A registered corresponding control order is registered for the period during which the

corresponding control order, as originally made, is in force.	1 2
(4) A regulation may—	3
(a) prescribe the way the registrar is to register a corresponding control order or an amended corresponding control order; and	4 5 6
(b) provide for the keeping of the register and access to it.	7 8
(5) Subsection (2) applies subject to section 161ZZ.	9
161ZZ Referral of order to court for adaptation or modification	10 11
(1) This section applies if—	12
(a) under section 161ZX(3)(b), the application states an adaptation or modification that the commissioner believes is necessary for the effective operation of the corresponding control order in Queensland; or	13 14 15 16 17
(b) the registrar believes it is necessary for the corresponding control order to be adapted or modified for its effective operation in Queensland.	18 19 20 21
(2) The registrar must refer the corresponding control order to the court for adaptation or modification.	22 23
(3) The commissioner must give the respondent—	24
(a) a copy of the application for registration of the corresponding control order; and	25 26
(b) a copy of any accompanying affidavit; and	27
(c) an appearance notice.	28
(4) The application may be heard in the respondent's absence if the court is satisfied the respondent has been given the documents mentioned in subsection (3).	29 30 31 32

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- (5) However, the court may, at any time before
deciding the application, direct the commissioner
to give the respondent a further appearance
notice. 1 2 3 4
- (6) The court may amend the corresponding control
order for the purposes of its registration by
adapting or modifying it in a way the court
considers necessary or desirable for its effective
operation in Queensland. 5 6 7 8 9
- (7) For amending the corresponding control order as
mentioned in subsection (6), the court must
consider— 10 11 12
 - (a) anything the court could consider on an
application under subdivision 1 for a control
order; and 13 14 15
 - (b) any changes in the respondent's
circumstances since the order was made. 16 17
- (8) The registrar must register the corresponding
control order as amended by the court. 18 19
- (9) In this section— 20

appearance notice means a notice in the approved
form stating the following in relation to a
corresponding control order— 21 22 23

 - (a) that an application for the registration of the
order has been referred to the court; 24 25
 - (b) when and where the application is to be
heard; 26 27
 - (c) that the respondent may appear at the
hearing of the application in person or be
represented by a lawyer; 28 29 30
 - (d) that, if the respondent fails to appear at the
hearing of the application, the court may
register the order, or the order as amended
by the court, in the respondent's absence. 31 32 33 34

161ZZA Action by the registrar and commissioner after registration of order	1 2
(1) The registrar must, within 2 business days after registering a corresponding control order, give the commissioner a certificate of the registration that attaches a copy of the registered order.	3 4 5 6
(2) The commissioner must, as soon as practicable after receiving a copy of the registered corresponding control order, give the respondent a copy of the registered order.	7 8 9 10
(3) Failure to comply with subsection (2) does not affect the validity of the registration of the corresponding control order.	11 12 13
(4) However, the registered corresponding control order has no effect on the respondent until the respondent is given a copy of the registered order.	14 15 16
(5) The registrar may not ask the commissioner for any fee, or reimbursement for any expenses incurred, under this subdivision.	17 18 19
161ZZB Effect of amended order if respondent not notified of amendment	20 21
(1) This section applies if—	22
(a) a corresponding control order has been amended under section 161ZZ; and	23 24
(b) the respondent has not been notified of the amendment.	25 26
(2) Until the respondent is notified of the amendment, the registered corresponding control order has effect and is enforceable against the respondent as if it had not been amended.	27 28 29 30

[s 279]

161ZZC Amendment or cancellation of registered order	1 2
(1) The court may, on application, amend or cancel a registered corresponding control order.	3 4
(2) Subdivision 2, other than section 161ZD(2), applies to the registered corresponding control order as if—	5 6 7
(a) a reference in the subdivision to a control order were a reference to a registered corresponding control order; and	8 9 10
(b) a reference in the subdivision to the revocation of a control order were a reference to the cancellation of a registered corresponding control order; and	11 12 13 14
(c) a reference in the subdivision to when a control order was last amended under subdivision 2 were a reference to when a registered corresponding control order was last amended under this section; and	15 16 17 18 19
(d) a reference in the subdivision to when a control order was made were a reference to when a registered corresponding control order was registered under this subdivision; and	20 21 22 23 24
(e) a reference in the subdivision to the prosecuting authority were a reference to the commissioner or a person authorised to accept an application made under this section on the commissioner's behalf.	25 26 27 28 29
(3) If the court cancels the registration of a registered corresponding control order under this section, the order, or the order as amended under this Act, stops having effect in Queensland.	30 31 32 33

161ZZD Operation of order not affected 1

Sections 161ZZA(4) and 161ZZB(2) do not affect 2
any operation that a corresponding control order 3
would, apart from this division, have in 4
Queensland. 5

Subdivision 6 Miscellaneous 6

161ZZE Order not affected by appeal 7

The starting of an appeal against the making of a 8
control order for a person does not affect the 9
order. 10

Clause 280 Amendment of s 171 (Review—periodic) 11

(1) Section 171(1)(a), after ‘subsection (2)—’ 12

insert— 13

or (2A) 14

(2) Section 171— 15

insert— 16

(2A) However, for subsection (1)(a), if the indefinite 17
sentence is imposed on the offender as the base 18
component of a sentence under section 161R(2), 19
the period of time the offender must have served 20
is worked out by adding the relevant further 21
period to the period of time the offender would 22
otherwise be required to have served under 23
subsection (2). 24

(5) In this section— 25

relevant further period, in relation to an offender 26
whose indefinite sentence is imposed as the base 27
component of a sentence under section 161R(2), 28
means the period of the mandatory component of 29
the sentence imposed on the offender under that 30

[s 281]

	section.	1
Clause 281	Amendment of s 187 (Disqualification from holding Queensland driver licence)	2
	(1) Section 187(2)—	3
	<i>omit, insert—</i>	4
	(2) Subsection (1) applies whether or not a conviction is recorded.	5
	(2) Section 187(4)—	6
	<i>omit.</i>	7
Clause 282	Insertion of new pt 14, div 16	8
	Part 14—	9
	<i>insert—</i>	10
	Division 16	11
	Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	12
	Subdivision 1	13
	Transitional provisions for repeal of Vicious Lawless Association Disestablishment Act 2013	14
	243 Definitions for subdivision	15
	In this subdivision—	16
	<i>commencement</i> means the commencement of the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , part 35.	17
	<i>repealed VLAD Act</i> means the <i>Vicious Lawless</i>	18

Association Disestablishment Act 2013 repealed 1
by the *Serious and Organised Crime Legislation* 2
Amendment Act 2016, part 35. 3

244 Application of subdivision 4

This subdivision applies if a court has in, or in 5
connection with, a criminal proceeding, 6
including, for example, a proceeding on appeal, 7
sentenced a person as a vicious lawless associate 8
for a declared offence under the repealed VLAD 9
Act, section 7. 10

245 Application to Supreme Court to reopen 11
sentencing proceedings 12

(1) The person may apply to the Supreme Court to 13
reopen the proceeding to the extent the court 14
imposed on the person either or both of the 15
following— 16

(a) a further sentence of 15 years imprisonment 17
served wholly in a corrective services 18
facility under the repealed VLAD Act, 19
section 7(1)(b); 20

(b) a further sentence of 10 years imprisonment 21
served wholly in a corrective services 22
facility under the repealed VLAD Act, 23
section 7(1)(c). 24

(2) The application must be made within 3 months 25
after the commencement. 26

(3) The court may, at any time, extend the period 27
mentioned in subsection (2). 28

(4) The court must give a copy of the application to 29
the director of public prosecutions. 30

(5) Within 10 business days after the making of the 31
application, the court must give directions to 32
enable the application to be heard. 33

[s 282]

246 Supreme Court may reopen sentencing proceedings	1
	2
(1) On the hearing of an application under section 245, the Supreme Court may reopen the proceeding to the extent mentioned in section 245(1).	3
	4
	5
	6
(2) The Supreme Court may also, at any time, reopen the proceeding to the extent mentioned in section 245(1) if a court reopens the proceeding under section 188.	7
	8
	9
	10
(3) If the Supreme Court reopens the proceeding under subsection (1) or (2), the court must—	11
	12
(a) give the parties an opportunity to be heard; and	13
	14
(b) if the person was sentenced under the repealed VLAD Act, section 7(1)(a) to a sentence other than life imprisonment or an indefinite sentence—resentence the person to a further sentence as if the law applicable to the further sentence were the law mentioned in section 161R(2)(b); and	15
	16
	17
	18
	19
	20
	21
(c) if the person was sentenced under the repealed VLAD Act, section 7(1)(a) to life imprisonment or an indefinite sentence—resentence the person to a further sentence as if the law applicable to the further sentence were the <i>Corrective Services Act 2006</i> .	22
	23
	24
	25
	26
	27
	28
(4) The court may have regard to—	29
(a) relevant material admitted before the court during the previous trial and sentence of the person; and	30
	31
	32
(b) any other material relevant to the further sentence.	33
	34
(5) If the previous sentencing court reduced, under	35

- section 13A, the further sentence imposed under the repealed VLAD Act, section 7(1)(b) or (c), the court must have regard to the material placed on the court file under section 13A(7)(c).
- (6) Subsection (5) does not—
- (a) affect an order prohibiting publication that has been made in relation to the material under section 13A(8); or
- (b) limit the reopening of a proceeding under section 188.
- (7) Also, if the Supreme Court reopens the proceeding under subsection (2), and the court that reopened the proceeding under section 188 was a court other than the Supreme Court, the Supreme Court may remit the resentencing of the person under subsection (3)(b) or (c) to the other court.
- (8) In this section—
- indefinite sentence* means an indefinite sentence under part 10.

247 Appeals

If a further sentence is imposed under section 246, the person, and the Attorney-General, have the same rights to appeal against the further sentence as if it were the further sentence originally imposed on the person.

248 No cause of action

No cause of action may be started or continued against the State in relation to any period of imprisonment the person may have actually served that is more than the period of imprisonment the person would have served if originally sentenced to the further sentence

[s 282]

imposed under section 246.	1
Subdivision 2 Other transitional provisions	2 3
249 Making of control order for offender convicted of committing indictable offence before commencement	4 5 6
Section 161W applies to the sentencing of an offender convicted of an indictable offence after the commencement whether the offence was committed before or after the commencement.	7 8 9 10
250 Application of amended s 187	11
Section 187, as amended by the <i>Serious and Organised Crime Legislation Amendment Act 2016</i> , applies to the sentencing of an offender for an offence after the commencement whether the proceeding for the offence was started before or after the commencement.	12 13 14 15 16 17
251 Application of s 161Q to particular prescribed offences	18 19
(1) This section applies if—	20
(a) an offender is convicted of an offence against—	21 22
(i) the Criminal Code, section 218B, 229B or 229HB; or	23 24
(ii) the <i>Drugs Misuse Act 1986</i> , section 5 or 9D; or	25 26
(iii) the <i>Weapons Act 1990</i> , section 65; and	27
(b) the offence is committed partly, but not wholly, after the commencement.	28 29

- (2) Section 161Q applies in relation to the offence 1
only if, at a time after the commencement, the 2
offender— 3
- (a) was a participant in a criminal organisation; 4
and 5
- (b) knew, or ought reasonably to have known, a 6
matter mentioned in section 161Q(1)(b). 7

Clause 283 Amendment of sch 1 (Serious violent offences) 8

Schedule 1, under the heading ‘Drugs Misuse Act 1986’, item 9
1— 10

omit, insert— 11

1 section 5 (Trafficking in dangerous drugs), if the 12
offender is sentenced for the offence on or after 13
the commencement of the *Serious and Organised* 14
Crime Legislation Amendment Act 2016, section 15
164, whether the offence or conviction happened 16
before or after that commencement 17

Clause 284 Insertion of new sch 1C 18

After schedule 1B— 19

insert— 20

Schedule 1C Prescribed offences 21

section 161N, definition *prescribed offence* 22

Criminal Code 23

- section 61 (Riot) 24
- section 87 (Official corruption) 25

[s 284]

• section 92A (Misconduct in relation to public office)	1 2
• section 119B (Retaliation against or intimidation of judicial officer, juror, witness etc.)	3 4 5
• section 122 (Corruption of jurors)	6
• section 127 (Corruption of witnesses)	7
• section 140 (Attempting to pervert justice)	8
• section 210 (Indecent treatment of children under 16)	9 10
• section 213 (Owner etc. permitting abuse of children on premises)	11 12
• section 215 (Carnal knowledge with or of children under 16)	13 14
• section 217 (Procuring young person etc. for carnal knowledge)	15 16
• section 218 (Procuring sexual acts by coercion etc.)	17 18
• section 218A (Using internet etc. to procure children under 16)	19 20
• section 218B (Grooming children under 16)	21
• section 219 (Taking child for immoral purposes)	22 23
• section 228A (Involving child in making child exploitation material)	24 25
• section 228B (Making child exploitation material)	26 27
• section 228C (Distributing child exploitation material)	28 29
• section 228D (Possessing child exploitation material)	30 31

• section 228DA (Administering child exploitation material website)	1 2
• section 228DB (Encouraging use of child exploitation material website)	3 4
• section 228DC (Distributing information about avoiding detection)	5 6
• section 229B (Maintaining a sexual relationship with a child)	7 8
• section 229G (Procuring engagement in prostitution)	9 10
• section 229H (Knowingly participating in provision of prostitution)	11 12
• section 229HB (Carrying on business of providing unlawful prostitution)	13 14
• section 229K (Having an interest in premises used for prostitution etc.)	15 16
• section 229L (Permitting young person etc. to be at place used for prostitution)	17 18
• sections 302 (Definition of <i>murder</i>) and 305 (Punishment of murder)	19 20
• sections 303 (Definition of <i>manslaughter</i>) and 310 (Punishment of manslaughter)	21 22
• section 306 (Attempt to murder)	23
• section 307 (Accessory after the fact to murder)	24 25
• section 308 (Threats to murder in document)	26
• section 309 (Conspiring to murder)	27
• section 314A (Unlawful striking causing death)	28 29
• section 317 (Acts intended to cause grievous bodily harm and other malicious acts)	30 31

[s 284]

• section 317A (Carrying or sending dangerous goods in a vehicle)	1 2
• section 320 (Grievous bodily harm)	3
• section 320A (Torture)	4
• section 321 (Attempting to injure by explosive or noxious substances)	5 6
• section 339 (Assaults occasioning bodily harm), if the offence is committed in circumstances where the offender is liable to imprisonment for 10 years	7 8 9 10
• section 340(1)(b) (Serious assaults), if the offence is committed in circumstances where the offender is liable to imprisonment for 14 years	11 12 13 14
• section 349 (Rape)	15
• section 350 (Attempt to commit rape)	16
• section 351 (Assault with intent to commit rape)	17 18
• section 352 (Sexual assaults)	19
• section 354 (Kidnapping)	20
• section 354A (Kidnapping for ransom)	21
• section 359 (Threats), if the offence is committed in circumstances where the offender is liable to imprisonment for 10 years	22 23 24 25
• section 359E (Punishment of unlawful stalking)	26 27
• section 398 (Punishment of stealing), if item 14 (Stealing firearm for use in another indictable offence) or 15 (Stealing firearm or ammunition) applies	28 29 30 31
• section 408C (Fraud), if the offence is committed in circumstances where the	32 33

offender is liable to imprisonment for 14 or more years	1 2
• section 408D (Obtaining or dealing with identification information)	3 4
• sections 409 (Definition of <i>robbery</i>) and 411(1) or (2) (Punishment of robbery)	5 6
• section 412 (Attempted robbery)	7
• section 415 (Extortion)	8
• section 419(1), but only if section 419(3) applies, or 419(4) (Burglary)	9 10
• section 433 (Receiving tainted property)	11

Criminal Proceeds Confiscation Act 2002

12
13

• section 250 (Money laundering)	14
----------------------------------	----

Drugs Misuse Act 1986

15

<i>Note—</i>	16
See the <i>Evidence Act 1977</i> , section 132C in relation to findings of fact on sentencing.	17 18
• section 5 (Trafficking in dangerous drugs)	19
• section 6 (Supplying dangerous drugs), if the offence is committed with a commercial purpose	20 21 22
• section 7 (Receiving or possessing property obtained from trafficking or supplying)	23 24
• section 8 (Producing dangerous drugs), if the offence is committed with a commercial purpose	25 26 27

[s 285]

- section 9B (Supplying relevant substances or things), if the offence is committed with a commercial purpose 1
2
3
- section 9C (Producing relevant substances or things), if the offence is committed with a commercial purpose 4
5
6
- section 9D (Trafficking in relevant substances or things) 7
8

Weapons Act 1990 9

- section 50B (Unlawful supply of weapons), if either of the following applies— 10
11
 - the penalty, paragraph (a), (b) or (c)(i) or (ii) 12
13
 - the penalty, paragraph (c)(iii) for a category A or B weapon or category M crossbow 14
15
16
- section 65 (Unlawful trafficking in weapons) 17
18

Part 20 **Amendment of Penalties and Sentences Regulation 2015** 19
20

Clause	285	Regulation amended	21
		This part amends the <i>Penalties and Sentences Regulation 2015</i> .	22 23
Clause	286	Insertion of new s 9A	24
		After section 9—	25
		<i>insert—</i>	26

9A Corresponding control orders—Act, s 161ZW	1
For section 161ZW of the Act, each of the	2
following is prescribed to be a corresponding	3
control order—	4
(a) a serious crime prevention order under the	5
<i>Crimes (Serious Crime Prevention Orders)</i>	6
<i>Act 2016</i> (NSW);	7
(b) a control order under the <i>Serious Crime</i>	8
<i>Control Act</i> (NT), if the order is made on the	9
ground mentioned in section 23(1)(d) of that	10
Act;	11
(c) a control order under the <i>Serious and</i>	12
<i>Organised Crime (Control) Act 2008</i> (SA),	13
if the court is satisfied of the matter	14
mentioned in section 22(2)(c) of that Act.	15

Part 21	Amendment of Police Powers	16
	and Responsibilities Act 2000	17

Division 1	Preliminary	18
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Clause 287	Act amended	19
	This part amends the <i>Police Powers and Responsibilities Act</i>	20
	<i>2000</i> .	21
	<i>Note—</i>	22
	See also the amendments in schedule 1.	23

[s 288]

Division 2	Amendments commencing on assent	1 2
Clause 288	Amendment of s 30 (Prescribed circumstances for searching persons without warrant)	3 4
	Section 30—	5
	<i>insert—</i>	6
	(g) the person has committed, is committing, or is about to commit an offence against the <i>Penalties and Sentences Act 1992</i> , section 161ZI;	7 8 9 10
	(h) the person has committed, or is committing, an offence against the <i>Summary Offences Act 2005</i> , section 10C.	11 12 13
Clause 289	Amendment of s 31 (Searching vehicles without warrant)	14
	Section 31(5)(c), ‘section 32(b)’—	15
	<i>omit, insert—</i>	16
	section 32(1)(b)	17
Clause 290	Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)	18 19
	(1) Section 32, from ‘The’ to ‘organisation or’—	20
	<i>omit, insert—</i>	21
	It is a prescribed circumstance for searching a vehicle without a warrant that	22 23
	(2) Section 32—	24
	<i>insert—</i>	25
	(n) may be evidence of the commission of an offence against the <i>Penalties and Sentences Act 1992</i> , section 161ZI.	26 27 28

-
- (3) Section 32— 1
insert— 2
 (2) Also, the following are prescribed circumstances 3
 for searching a vehicle without a warrant— 4
 (a) the driver or a passenger in the vehicle has 5
 committed, or is committing, an offence 6
 against the *Summary Offences Act 2005*, 7
 section 10C; 8
 (b) the vehicle is being used by, or is in the 9
 possession of, a participant in a criminal 10
 organisation. 11

Clause 291 Amendment of ch 4A hdg (Motor vehicle forfeiture for particular criminal organisation offences) 12
 Chapter 4A, heading, ‘particular’— 13
omit. 14
 15

Clause 292 Replacement of s 123B (Meaning of *criminal organisation offence*) 16
 Section 123B— 17
omit, insert— 18
123B Meaning of *criminal organisation offence* 19
 (1) A *criminal organisation offence* means an 20
 offence against the Criminal Code, section 60A or 21
 60B committed in relation to a motor vehicle. 22
 (2) For subsection (1), an offence is committed in 23
 relation to a motor vehicle if the vehicle is used by 24
 the offender in connection with the commission of 25
 the offence, including, for example, using the 26
 vehicle during the commission of the offence. 27
 28

[s 293]

Clause 293	Amendment of s 123G (Impounding motor vehicles for criminal organisation offence)	1 2
	Section 123G(2), note, from ‘, the proceeding’—	3
	<i>omit, insert—</i>	4
	or the proceeding for the criminal organisation offence is discontinued.	5 6
Clause 294	Amendment of s 123X (Decision on application for release of impounded motor vehicle on basis of severe hardship)	7 8 9
	(1) Section 123X(9), ‘any’—	10
	<i>omit, insert—</i>	11
	either	12
	(2) Section 123X(9)(c)—	13
	<i>omit.</i>	14
Clause 295	Amendment of s 123Z (Decision on application for release of impounded motor vehicle on basis criminal organisation offence happened without owner’s consent)	15 16 17
	(1) Section 123Z(7), ‘any’—	18
	<i>omit, insert—</i>	19
	either	20
	(2) Section 123Z(7)(c)—	21
	<i>omit.</i>	22
Clause 296	Amendment of s 123ZB (Decision on application for release of impounded motor vehicle on basis that offender not a participant in a criminal organisation)	23 24 25
	(1) Section 123ZB(7), ‘any’—	26
	<i>omit, insert—</i>	27
	either	28

(2) Section 123ZB(7)(c)— 1
omit. 2

Clause 297 Amendment of s 123ZS (State's liability to pay costs of impounding) 3
Section 123ZS(2)(c)— 4
omit. 5
6

Clause 298 Amendment of s 123ZX (Release of motor vehicle if driver found not guilty etc.) 7
Section 123ZX(1)(c)— 8
omit. 9
10

Clause 299 Amendment of s 123ZZC (Compensation for disposal of motor vehicle if driver found not guilty etc.) 11
(1) Section 123ZZC(1)(a), 'any'— 12
omit, insert— 13
either 14
15
(2) Section 123ZZC(1)(a)(iii)— 16
omit. 17

Clause 300 Amendment of s 150AA (Definitions) 18
(1) Section 150AA, definition *criminal organisation control order property*— 19
omit. 20
21
(2) Section 150AA— 22
insert— 23
access information means information that is 24
necessary for a person to access and read 25
information stored electronically on a storage 26

[s 300]

device.	1
<i>control order property</i> means anything under a	2
person's control that the person is prohibited from	3
possessing under a control order or a registered	4
corresponding control order under the <i>Penalties</i>	5
<i>and Sentences Act 1992</i> .	6
<i>employee</i> includes a person who works under a	7
contract for services.	8
<i>issuer</i> see section 150(7).	9
<i>relevant evidence</i> means—	10
(a) evidence of the commission of an offence;	11
or	12
(b) evidence that may be confiscation related	13
evidence.	14
<i>specified person</i> means a person who—	15
(a) is—	16
(i) reasonably suspected of having	17
committed an offence for which a	18
search warrant was issued; or	19
(ii) the owner of a storage device; or	20
(iii) in possession of a storage device; or	21
(iv) an employee of the owner or person in	22
possession of a storage device; or	23
(v) a person who uses or has used a storage	24
device; or	25
(vi) a person who is or was a system	26
administrator for the computer network	27
of which a storage device forms or	28
formed a part; and	29
(b) has a working knowledge of—	30
(i) how to access and operate a storage	31
device or a computer network of which	32

	the storage device forms or formed a part; or	1 2
	(ii) measures applied to protect information stored on a storage device.	3 4
	<i>storage device</i> means a device on which information may be stored electronically, including a computer.	5 6 7
	<i>stored</i> , on a storage device, includes accessible through the device.	8 9
Clause 301	Amendment of s 150 (Search warrant application)	10
	(1) Section 150(1)(d)—	11
	<i>omit, insert—</i>	12
	(d) to find control order property.	13
	(2) Section 150(3)(d)—	14
	<i>omit, insert—</i>	15
	(d) control order property.	16
Clause 302	Amendment of s 154 (Order in search warrant about information necessary to access information stored electronically)	17 18 19
	(1) Section 154(1), from ‘order’ to ‘place’—	20
	<i>omit, insert—</i>	21
	, order a specified person to do any of the following in relation to a storage device in the person’s possession, or to which the person has access, at the place	22 23 24 25
	(2) Section 154(1)(a), before ‘necessary’—	26
	<i>insert—</i>	27
	and any other information or assistance	28
	(3) Section 154(1)(b)—	29

[s 303]

insert—

- (iv) convert information stored on the device that may be relevant evidence into documentary form or another form that enables it to be understood by a police officer.

(4) Section 154(2)—

omit, insert—

- (2) If the issuer is a magistrate or a judge, the issuer may also, in the search warrant, order that, if the storage device is seized and removed from the place, a specified person is required to do a thing mentioned in subsection (1)(a) or (b) after the device has been removed.
- (3) An order made under subsection (2) must state—
 - (a) the time at or by which the specified person must give a police officer the information or assistance; and
 - (b) the place where the specified person must provide the information and assistance; and
 - (c) any conditions to which the provision of the information or assistance is subject.

Clause 303 Insertion of new ss 154A and 154B

After section 154—

insert—

154A Order for access information after storage device has been seized

- (1) This section applies if—
 - (a) a storage device is seized under the search warrant and removed from the place; and
 - (b) either—

-
- (i) the search warrant did not contain an order made under section 154(1) or (2); or
 - (ii) the search warrant contained an order made under section 154(1) or (2) but further access information is required for a police officer to gain access to information stored on the device that may be relevant evidence.
 - (2) On the application of a police officer, a magistrate or a judge may make an order requiring a specified person to do a thing mentioned in section 154(1)(a) or (b).
 - (3) An application made under subsection (2)—
 - (a) may be made at any time after the warrant has been issued; and
 - (b) must be made—
 - (i) if the search warrant was issued by a judge—to a Supreme Court judge; or
 - (ii) if the search warrant was issued by a magistrate—to a magistrate.
 - (4) An order made under subsection (2) must state—
 - (a) the time at or by which the specified person must give a police officer the information or assistance; and
 - (b) the place where the specified person must provide the information or assistance; and
 - (c) any conditions to which the provision of the information or assistance is subject; and
 - (d) that failure, without reasonable excuse, to comply with the order may be dealt with under the Criminal Code, section 205A.
 - (5) A magistrate or a judge may make an order under subsection (2) only if satisfied there are
-

[s 304]

reasonable grounds for suspecting that 1
information stored on the storage device may be 2
relevant evidence. 3

154B Compliance with order about information 4
necessary to access information stored 5
electronically 6

A person is not excused from complying with an 7
order made under section 154(1) or (2) or 8
154A(2) on the ground that complying with it 9
may tend to incriminate the person or make the 10
person liable to a penalty. 11

Clause 304 Amendment of s 156 (What search warrant must state) 12

(1) Section 156(1)(b)(iv), after ‘impound’— 13

insert— 14

or immobilise 15

(2) Section 156(1)(b)(v)— 16

omit, insert— 17

(v) control order property—brief details of the 18
control order or registered corresponding 19
control order under the *Penalties and 20*
Sentences Act 1992; and 21

(3) Section 156(3)— 22

omit, insert— 23

(3) If a magistrate or a judge makes an order under 24
section 153 or 154(1) or (2), the warrant must also 25
state that failure, without reasonable excuse, to 26
comply with the order may be dealt with under— 27

(a) for section 153—the Criminal Code, section 28
205; or 29

(b) for section 154(1) or (2)—the Criminal 30
Code, section 205A. 31

Clause 305	Amendment of s 180 (Production notices)	1
	(1) Section 180(2), before ‘magistrate’—	2
	<i>insert—</i>	3
	justice or a	4
	(2) Section 180(5)—	5
	<i>omit, insert—</i>	6
	(5) The justice or magistrate (the <i>issuer</i>) may refuse	7
	to consider the application until the police officer	8
	gives the issuer all the information the issuer	9
	requires about the application in the way the	10
	issuer requires.	11
	<i>Example—</i>	12
	The issuer may require additional information	13
	supporting the application to be given by statutory	14
	declaration.	15
Clause 306	Amendment of s 181 (Issue of production notice)	16
	Section 181, before ‘magistrate’—	17
	<i>insert—</i>	18
	justice or the	19
Clause 307	Amendment of s 754 (Offence for driver of motor vehicle to fail to stop motor vehicle)	20
	Section 754(2), minimum penalty—	21
	<i>omit, insert—</i>	22
	Minimum penalty—50 penalty units or 50 days	23
	imprisonment served wholly in a corrective	24
	services facility.	25
		26
Clause 308	Amendment of sch 6 (Dictionary)	27
	(1) Schedule 6, definitions <i>criminal organisation</i> and	28
	<i>participant—</i>	29

[s 308]

<i>omit.</i>	1
(2) Schedule 6—	2
<i>insert—</i>	3
<i>access information</i> , for chapter 7, part 1, see section 150AA.	4 5
<i>control order property</i> , for chapter 7, part 1, see section 150AA.	6 7
<i>criminal organisation—</i>	8
(a) see the <i>Penalties and Sentences Act 1992</i> , section 161O; and	9 10
(b) includes an entity declared by regulation under the Criminal Code, section 1, definition <i>criminal organisation</i> , paragraph (b), to be a criminal organisation.	11 12 13 14
<i>employee</i> , for chapter 7, part 1, see section 150AA.	15 16
<i>issuer</i> , for chapter 7, part 1, see section 150(7).	17
<i>participant—</i>	18
(a) in a criminal organisation, see the <i>Penalties and Sentences Act 1992</i> , section 161P; or	19 20
(b) for chapter 11, see section 229.	21
<i>relevant evidence</i> , for chapter 7, part 1, see section 150AA.	22 23
<i>specified person</i> , for chapter 7, part 1, see section 150AA.	24 25
<i>storage device</i> , for chapter 7, part 1, see section 150AA.	26 27
<i>stored</i> , for chapter 7, part 1, see section 150AA.	28
<i>warrant evidence or property</i> , for chapter 7, part 1, see section 150AA.	29 30

Division 3	Amendments commencing 3 months after assent	1 2
Clause 309	Amendment of s 29 (Searching persons without warrant)	3
	Section 29(1A)—	4
	<i>omit.</i>	5
Clause 310	Amendment of s 30 (Prescribed circumstances for searching persons without warrant)	6 7
	Section 30—	8
	<i>insert—</i>	9
	(i) the person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.	10 11 12
Clause 311	Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)	13 14
	Section 32(2)(b)—	15
	<i>omit, insert—</i>	16
	(b) the vehicle is being used by, or is in the possession of, a person who has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.	17 18 19 20
Clause 312	Amendment of s 40 (Person may be required to state name and address)	21 22
	Section 40(2A) to (2C)—	23
	<i>omit.</i>	24

[s 313]

Clause 313	Amendment of s 41 (Prescribed circumstances for requiring name and address)	1
		2
(1)	Section 41(ba)—	3
	<i>omit.</i>	4
(2)	Section 41(e), ‘someone’—	5
	<i>omit, insert—</i>	6
	a person	7
(3)	Section 41(n), ‘or is giving’—	8
	<i>omit, insert—</i>	9
	, is giving, or has given	10
(4)	Section 41—	11
	<i>insert—</i>	12
	(o) a police officer is about to give, is giving, or has given a person any of the following under the <i>Peace and Good Behaviour Act 1982</i> —	13
		14
		15
		16
	(i) a public safety order;	17
	(ii) a restricted premises order;	18
	(iii) a fortification removal order;	19
	(p) a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.	20
		21
		22
		23
Clause 314	Insertion of new s 41A	24
	Chapter 2, part 4, division 1—	25
	<i>insert—</i>	26
	41A Power to require identifying particulars of person for official warning for consorting	27
		28
	(1) This section applies if—	29

-
- (a) a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders; and
 - (b) the police officer has required the person, under section 40(2), to give evidence of the correctness of the person's stated name and address; and
 - (c) the person can not provide evidence of the correctness of the person's stated name and address when the requirement is made or at another convenient location.
- Example of another convenient location—*
- the person's vehicle, containing the person's driver's licence, parked nearby
- (2) The police officer may require the person to allow the police officer to take or photograph all or any of the person's identifying particulars for the sole purpose of establishing the name, address and date of birth of the person.
 - (3) The identifying particulars must be destroyed, in the presence of a justice, as soon as practicable after establishing the name, address and date of birth of the person.
 - (4) A person does not commit an offence against section 791 if—
 - (a) the person was required to do something under subsection (2); and
 - (b) the court is not satisfied that the police officer, at the time of making the requirement, had the power under subsection (1) to make the requirement.

Clause 315 Insertion of new s 43B

Chapter 2, part 4—

[s 316]

insert—

**43B Power to require date of birth of person for
official warning for consorting**

- (1) This section applies if a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.
- (2) The police officer may require the person to state the person's correct date of birth, whether or not when requiring the person to state the person's correct name and address.
- (3) Also, the police officer may require the person to give evidence of the correctness of the stated date of birth if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated date of birth or to otherwise be able to give the evidence.
- (4) A person does not commit an offence against section 791 if—
 - (a) the person was required to do something under subsection (2) or (3); and
 - (b) the court is not satisfied that the police officer, at the time of making the requirement, had the power under subsection (1) to make the requirement.

Clause 316 Insertion of new ch 2, pt 6A

Chapter 2—

insert—

**Part 6A Prevention of criminal
consorting**

<i>Note—</i>	1
See the following provisions for related police powers—	2
• section 30(i) (Prescribed circumstances for searching persons without warrant)	3
	4
• section 32(2)(b) (Prescribed circumstances for searching vehicle without warrant)	5
	6
• section 41(p) (Prescribed circumstances for requiring name and address)	7
	8
• section 41A (Power to require identifying particulars of person for official warning for consorting)	9
	10
	11
• section 43B (Power to require date of birth of person for official warning for consorting)	12
	13
• section 60(3)(k) (Stopping vehicles for prescribed purposes)	14
	15

53BAA Definitions for part 16

In this part— 17

consort— 18

(a) has the meaning given by the Criminal Code, section 77A; and 19
20

(b) does not include an act of consorting mentioned in the Criminal Code, section 77C that is reasonable in the circumstances. 21
22
23

offence of habitually consorting means an offence against the Criminal Code, section 77B. 24
25

official warning, for consorting, means a warning given in person, whether orally or in writing, that— 26
27
28

(a) a stated person is a recognised offender; and 29

(b) consorting with the stated person on a further occasion may lead to the commission of the offence of habitually consorting. 30
31
32
33

recognised offender means a recognised offender 34

[s 316]

who is at least 18 years.	1
53BAB Part does not apply to child	2
An official warning may not be given to a child.	3
53BAC Police powers for giving official warning for consorting	4 5
(1) This section applies if a police officer reasonably suspects a person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.	6 7 8 9
(2) The police officer may stop the person and require the person to remain at the place where the person is stopped for the time reasonably necessary for the police officer to do any or all of the following—	10 11 12 13 14
(a) confirm or deny the police officer’s suspicion, including, for example, by exercising a power under section 40 or 43B;	15 16 17
(b) give the person an official warning for consorting;	18 19
(c) if the official warning is given orally—confirm under subsection (5) the official warning.	20 21 22
<i>Note—</i>	23
Failure to comply with a requirement given under this subsection is an offence against section 791.	24 25
(3) However, before giving an official warning under subsection (2)(b), the police officer must consider whether it is appropriate to give the warning having regard to the object of disrupting and preventing criminal activity by deterring recognised offenders from establishing, maintaining or expanding a criminal network.	26 27 28 29 30 31 32

-
- (4) If an official warning for consorting is given in writing, the warning must be in the approved form. 1
2
3
- (5) If an official warning for consorting is given orally, the police officer must, within 72 hours after giving the warning orally, confirm the warning by giving it, in the approved form, to the person in the prescribed way. 4
5
6
7
8
- (6) Unless the contrary is proved— 9
- (a) an approved form given by post is taken to have been received by the person to whom the form was addressed when the form would have been delivered in the ordinary course of post; and 10
11
12
13
14
- (b) an approved form given by electronic means is taken to have been received by the person to whom the form was sent on the day the form was sent to the electronic address nominated by the person to a police officer. 15
16
17
18
19
- (7) If practicable, the giving of an official warning under subsection (2)(b) must be electronically recorded. 20
21
22
- (8) To remove any doubt, it is declared that— 23
- (a) an official warning for consorting may be given to a person in relation to a recognised offender before, during or after the person has consorted with the recognised offender; and 24
25
26
27
28
- (b) a failure to comply with subsection (3) does not affect the validity of an official warning for consorting. 29
30
31
- (9) In this section— 32
- criminal activity*** means the commission of a relevant offence under the Criminal Code, section 33
34
35
-

[s 316]

<i>electronic address</i> includes an email address and a mobile phone number.	1 2
<i>electronic means</i> includes by email, multimedia message and SMS message.	3 4
<i>prescribed way</i> , for giving an approved form to a person, means—	5 6
(a) delivering the form to the person personally; or	7 8
(b) sending the form by electronic means to the electronic address nominated by the person to a police officer; or	9 10 11
(c) sending the form by post or certified mail to the person at the last known or usual place of residence or business of the person or the last known or usual postal address of the person.	12 13 14 15 16
<i>recognised offender</i> includes a person who a police officer reasonably suspects is a recognised offender.	17 18 19
<i>Example of when a police officer might reasonably suspect a person is a recognised offender—</i>	20 21
A police officer reasonably suspects a person has been convicted of an indictable offence. The police officer is unable to confirm the nature of the indictable offence, or whether the conviction is spent, due to the unavailability of the person's complete criminal history or the application of the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> . However, the police officer reasonably suspects the person is a recognised offender.	22 23 24 25 26 27 28 29
<i>SMS message</i> means a text message sent using the mobile phone service known as the short messaging service.	30 31 32

53BAD Effect of official warning for consorting 33

- (1) An official warning for consorting given in relation to a stated person who is a recognised 34
35

-
- | | |
|----------------------------------------------------------|----|
| offender has effect until the stated person stops | 1 |
| being a recognised offender. | 2 |
| (2) However, if an official warning for consorting is | 3 |
| given orally, and the warning is not confirmed | 4 |
| under section 53BAC(5), the official warning | 5 |
| stops having effect 72 hours after it is given. | 6 |
| (3) Also, if an official warning for consorting is given | 7 |
| in relation to a stated person who is not a | 8 |
| recognised offender, the official warning stops | 9 |
| having effect 24 hours after it is given. | 10 |
| (4) A person does not commit an offence against | 11 |
| section 791 if— | 12 |
| (a) the person was required to do something | 13 |
| under section 53BAC(2); and | 14 |
| (b) the court is not satisfied the police officer, at | 15 |
| the time of making the requirement, had the | 16 |
| suspicion mentioned in section 53BAC(1). | 17 |

53BAE Prevention of consorting with recognised offender 18
19

- | | |
|--------------------------------------------------------|----|
| (1) This section applies if— | 20 |
| (a) a police officer has given a person at a place | 21 |
| an official warning for consorting; and | 22 |
| (b) the police officer reasonably suspects the | 23 |
| person is consorting at the place with the | 24 |
| person stated in the official warning. | 25 |
| (2) The police officer may require the person to leave | 26 |
| the place and not return or be within the place | 27 |
| within a stated reasonable time of not more than | 28 |
| 24 hours. | 29 |

Note— 30

Failure to comply with a requirement given under this 31
subsection is an offence against section 791. 32

- | | |
|-----------------------------------------------|----|
| (3) However, subsection (2) does not apply if | 33 |
|-----------------------------------------------|----|

[s 317]

	requiring the person to leave the place may endanger the safety of the person or someone else.	1 2
	<i>Example of requirement to leave place that may endanger safety—</i>	3 4
	a requirement for a person to leave a vehicle in which recognised offenders are passengers in circumstances in which the person has no access to other transport	5 6 7
	(4) A person does not commit an offence against section 791 if—	8 9
	(a) the person was required to leave a place under subsection (2); and	10 11
	(b) the court is not satisfied the police officer, at the time of making the requirement, had the power under subsection (1) to make the requirement.	12 13 14 15
Clause 317	Amendment of s 60 (Stopping vehicles for prescribed purposes)	16 17
	Section 60(3)—	18
	<i>insert—</i>	19
	(j) to give the person any of the following under the <i>Peace and Good Behaviour Act 1982</i> —	20 21 22
	(i) a public safety order;	23
	(ii) a restricted premises order;	24
	(iii) a fortification removal order;	25
	(k) to give a person, under section 53BAC, an official warning for consorting.	26 27
Clause 318	Omission of ch 4A (Motor vehicle forfeiture for criminal organisation offences)	28 29
	Chapter 4A—	30
	<i>omit.</i>	31

Clause 319	Amendment of s 150 (Search warrant application)	1
(1)	Section 150(1)(c), ‘, 4A’—	2
	<i>omit.</i>	3
(2)	Section 150(1)—	4
	<i>insert—</i>	5
	(e) if the place is premises at which a senior police officer reasonably believes 1 or more disorderly activities have taken place and are likely to take place again—to find prohibited items at the place.	6 7 8 9 10
(3)	Section 150(3)—	11
	<i>insert—</i>	12
	(e) a prohibited item.	13
(4)	Section 150(5)(b)—	14
	<i>insert—</i>	15
	(ia) for an application relating to premises at which a senior police officer reasonably believes 1 or more disorderly activities have taken place and are likely to take place again—the premises; or	16 17 18 19 20
(5)	Section 150(5)(b)(i) to (ii)—	21
	<i>renumber</i> as section 150(5)(b)(i) to (iii).	22
Clause 320	Replacement of s 151 (Issue of search warrant)	23
	Section 151—	24
	<i>omit, insert—</i>	25
	151 Issue of search warrant	26
	The issuer may issue a search warrant only if satisfied—	27 28

[s 321]

- (a) there are reasonable grounds for suspecting the evidence or property mentioned in section 150(1)(a), (b), (c) or (d) is—
 - (i) at the place; or
 - (ii) likely to be taken to the place within the next 72 hours; or
- (b) there are reasonable grounds for believing the prohibited items mentioned in section 150(1)(e) are—
 - (i) at the place; or
 - (ii) likely to be taken to the place within the next 72 hours.

Clause 321	Amendment of s 156 (What search warrant must state)	13
(1)	Section 156(1)(b)(iv), ‘, 4A’— <i>omit.</i>	14 15
(2)	Section 156(1)(b)(v), ‘and’— <i>omit, insert—</i>	16 17
	or	18
(3)	Section 156(1)(b)— <i>insert—</i>	19 20
	(vi) premises at which a senior police officer reasonably believes 1 or more disorderly activities have taken place and are likely to take place again—brief details of the disorderly activities; and	21 22 23 24 25

Clause 322	Amendment of s 686 (Application of pt 3)	26
(1)	Section 686(2)(a), ‘, 4A’— <i>omit.</i>	27 28
(2)	Section 686(2)—	29

insert—

- (h) a prohibited item seized from restricted premises under the *Peace and Good Behaviour Act 1982*, section 49; or
- (i) a prohibited item seized from premises the subject of a search warrant applied for under section 150(1)(e) in exercise of powers under section 157(1)(h); or
- (j) fortification removed from fortified premises under the *Peace and Good Behaviour Act 1982*, section 65.

Clause 323 Amendment of s 740 (Public interest monitor)

Section 740(1)—

insert—

- (c) the giving of official warnings for consorting; and
- (d) the making of public safety orders by commissioned officers under the *Peace and Good Behaviour Act 1982*.

Clause 324 Amendment of s 742 (Monitor's functions)

Section 742(4)—

insert—

- (e) to gather statistical information about the use and effectiveness of official warnings for consorting;
- (f) to gather statistical information about the use and effectiveness of public safety orders made by commissioned officers under the *Peace and Good Behaviour Act 1982*.

[s 325]

Clause 325	Amendment of s 743 (Monitor's annual report)	1
	Section 743—	2
	<i>insert—</i>	3
	(3A) Also, a report relating to a year must include the following matters relating to official warnings for consorting—	4 5 6
	(a) the number of official warnings for consorting given during the year;	7 8
	(b) the number of times the giving of an official warning for consorting led to a person committing an offence against section 790 or 791;	9 10 11 12
	(c) the extent of compliance by the police service with chapter 2, part 6A;	13 14
	(d) the use of official warnings for consorting generally.	15 16
	(3B) Also, a report relating to a year must include the following matters relating to public safety orders made by commissioned officers under the <i>Peace and Good Behaviour Act 1982</i> —	17 18 19 20
	(a) the number of public safety orders made by commissioned officers during the year;	21 22
	(b) the extent of compliance by the police service with the <i>Peace and Good Behaviour Act 1982</i> , part 3, division 2;	23 24 25
	(c) the use of public safety orders generally.	26
	(3C) The public interest monitor must, within the period mentioned in subsection (1), give to the Minister responsible for administering the <i>Peace and Good Behaviour Act 1982</i> and the Minister responsible for administering the Criminal Code, a copy of any part of a report relating to a year that relates to a matter mentioned in subsection (3A) or (3B).	27 28 29 30 31 32 33 34

Clause 326	Amendment of sch 2 (Relevant offences for controlled operations and surveillance device warrants)	1
	Schedule 2, section 4—	2
	<i>insert—</i>	3
	• section 77B (Habitually consorting with recognised offenders)	4
		5
		6
Clause 327	Amendment of sch 6 (Dictionary)	7
	(1) Schedule 6, definition <i>criminal organisation</i> —	8
	<i>omit.</i>	9
	(2) Schedule 6—	10
	<i>insert—</i>	11
	<i>consort</i> see section 53BAA.	12
	<i>criminal organisation</i> see the <i>Penalties and Sentences Act 1992</i> , section 161O.	13
		14
	<i>disorderly activity</i> see the <i>Peace and Good Behaviour Act 1982</i> , section 33.	15
		16
	<i>fortification removal order</i> means a fortification removal order under the <i>Peace and Good Behaviour Act 1982</i> .	17
		18
		19
	<i>offence of habitually consorting</i> see section 53BAA.	20
		21
	<i>official warning</i> , for consorting, see section 53BAA.	22
		23
	<i>prohibited item</i> see the <i>Peace and Good Behaviour Act 1982</i> , section 33.	24
		25
	<i>public safety order</i> means a public safety order under the <i>Peace and Good Behaviour Act 1982</i> .	26
		27
	<i>recognised offender</i> —	28
	(a) generally— see the Criminal Code, section 77; and	29
		30

[s 328]

- (b) for chapter 2, part 6A—see section 53BAA. 1
- restricted premises order* means a restricted 2
premises order under the *Peace and Good* 3
Behaviour Act 1982. 4
- stop and desist notice* means a stop and desist 5
notice under the *Peace and Good Behaviour Act* 6
1982. 7
- (3) Schedule 6, definition *enforcement act*— 8
insert— 9
- (q) the taking, under section 41A, of identifying 10
particulars of a person; 11
- (r) the giving, under section 53BAC, of an 12
official warning for consorting; 13
- (s) the exercise of a power under the *Peace and* 14
Good Behaviour Act 1982, section 31(2), 15
49(1) or 65(2); 16
- (t) the seizing of a prohibited item under the 17
Peace and Good Behaviour Act 1982, 18
section 49(1)(c)(i) or the removal or 19
modification of a fortification under the 20
Peace and Good Behaviour Act 1982, 21
section 65; 22
- (u) the giving of a stop and desist notice. 23

Part 22

Amendment of Police Powers
and Responsibilities
Regulation 2012

24
25
26

Clause 328

Regulation amended

27

This part amends the *Police Powers and Responsibilities*

Regulation 2012.

28
29

Clause 329	Amendment of sch 9 (Responsibilities code)	1
(1)	Schedule 9, section 48(b), ‘or confiscation related activity’—	2
	<i>omit, insert—</i>	3
	, confiscation related activity or disorderly	4
	activity	5
(2)	Schedule 9, section 48—	6
	<i>insert—</i>	7
	(da) if the search warrant related to disorderly	8
	activities at premises—the type of	9
	disorderly activities to which the warrant	10
	related;	11
(3)	Schedule 9, section 48(da) and (e)—	12
	<i>renumber</i> as section 48(e) and (f).	13
(4)	Schedule 9—	14
	<i>insert—</i>	15
	52A Taking identifying particulars for official	16
	warning for consorting—Act, s 679(1)	17
	The following information about taking or	18
	photographing identifying particulars of a person	19
	under section 41A of the Act must be included in	20
	the register of enforcement acts—	21
	(a) the name of the person in relation to whom	22
	the identifying particulars were taken or	23
	photographed;	24
	(b) the reason the identifying particulars were	25
	taken or photographed;	26
	(c) when the identifying particulars were taken	27
	or photographed;	28
	(d) when the identifying particulars were	29
	destroyed;	30
	(e) the name of the justice in whose presence	31
	the identifying particulars were destroyed;	32

[s 329]

- | | |
|------------------------------------------------------|---|
| (f) the apparent demographic category of the person. | 1 |
| | 2 |

52B Official warnings for consorting—Act, s 679(1)	3
-----------------------------------------------------------	---

The following information about an official warning for consorting given under section 53BAC of the Act to a person must be included in the register of enforcement acts—	4
	5
	6
	7

- | | |
|-------------------------------------------------------------------------------------------------------------------------------|----|
| (a) the name of the person given the warning; | 8 |
| (b) the reason the warning was given; | 9 |
| (c) when the warning was given; | 10 |
| (d) the location of the person when given the warning; | 11 |
| | 12 |
| (e) when and how the police officer gave the person the approved form confirming the official warning; | 13 |
| | 14 |
| | 15 |
| (f) whether the giving of the official warning led to the person committing an offence against section 790 or 791 of the Act; | 16 |
| | 17 |
| | 18 |
| (g) whether the person was required to leave a place under section 53BAE of the Act; | 19 |
| | 20 |
| (h) the apparent demographic category of the person. | 21 |
| | 22 |

52C Powers for public safety orders—Act, s 679(1)	23
----------------------------------------------------------	----

The following information about the exercise of a power under the <i>Peace and Good Behaviour Act 1982</i> , section 31(2) in relation to a person for whom a public safety order has been made must be included in the register of enforcement acts—	24
	25
	26
	27
	28

- | | |
|-----------------------------------------------------------|----|
| (a) the name of the person; | 29 |
| (b) when the public safety order for the person was made; | 30 |
| | 31 |

-
- | | |
|----------------------------------------------------------------------------------------------------------------------|-------------|
| (c) when the power was exercised; | 1 |
| (d) the reason the power was exercised; | 2 |
| (e) the location of the person when the power was exercised; | 3
4 |
| (f) whether the exercise of the power led to the person committing an offence against section 790 or 791 of the Act; | 5
6
7 |
| (g) the apparent demographic category of the person. | 8
9 |

52D Powers for restricted premises orders—Act, s 679(1) 10
11

The following information about the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 49 in relation to restricted premises must be included in the register of enforcement acts— 12
13
14
15
16

- | | |
|--------------------------------------------------------------------------------------------------------------------|----------------|
| (a) when and where the restricted premises order was made; | 17
18 |
| (b) when the restricted premises were entered; | 19 |
| (c) the time spent at the restricted premises; | 20 |
| (d) whether the exercise of the power led to a person committing an offence against section 790 or 791 of the Act; | 21
22
23 |
| (e) if paragraph (d) applies—the name of the person and the nature of the offence. | 24
25 |

52E Powers for fortification removal orders—Act, s 679(1) 26
27

The following information about the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 65(2) in relation to fortified premises must be included in the register of 28
29
30
31

[s 329]

- | | |
|--------------------------------------------------------------------------------------------------------------------|-------------|
| enforcement acts— | 1 |
| (a) when and where the fortification removal order was made; | 2
3 |
| (b) when the fortified premises were entered; | 4 |
| (c) the time spent at the fortified premises; | 5 |
| (d) whether the exercise of the power led to a person committing an offence against section 790 or 791 of the Act; | 6
7
8 |
| (e) if paragraph (d) applies—the name of the person and the nature of the offence. | 9
10 |

52F Taking of prohibited items from restricted premises or fortifications from fortified premises—Act, s 679(1)	11
	12
	13

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| (1) The following information about a prohibited item taken from restricted premises under the <i>Peace and Good Behaviour Act 1982</i> , section 49 (a <i>thing</i>) or a fortification taken from fortified premises under the <i>Peace and Good Behaviour Act 1982</i> , section 65 (also a <i>thing</i>) must be included in the register of enforcement acts— | 14
15
16
17
18
19
20 |
| (a) the name of the person from whom the thing was taken, if known; | 21
22 |
| (b) when and where the thing was taken; | 23 |
| (c) the reason the thing was taken; | 24 |
| (d) a description of the thing taken; | 25 |
| (e) information about the return, destruction or disposal of the thing. | 26
27 |
| (2) In this section— | 28 |
| <i>take</i> , a fortification from fortified premises, means remove or modify the fortification. | 29
30 |

52G Stop and desist notices—Act, s 679(1)

The following information about a stop and desist
notice given to a person in relation to premises
must be included in the register of enforcement
acts—

- (a) the name of the person given the notice;
- (b) the reason the notice was given;
- (c) when the notice was given.

**Part 23 Amendment of Police Service
Administration Act 1990**

Clause 330 Act amended

This part amends the *Police Service Administration Act 1990*.

**Clause 331 Omission of pt 10, div 1, sdiv 1A (Disclosure of criminal
histories relating to criminal organisations)**

Part 10, division 1, subdivision 1A—
omit.

**Clause 332 Amendment of pt 10, div 1, sdiv 2, hdg (Other criminal
history disclosure provisions)**

Part 10, division 1, subdivision 2, heading, ‘Other criminal’—
omit, insert—

Criminal

Clause 333 Amendment of s 10.2E (Relationship to other laws)

Section 10.2E(2), ‘an entity under subdivision 1A or’—
omit.

[s 334]

Part 24 Amendment of Racing Act 2002 1

Clause 334 Act amended 2
 This part amends the *Racing Act 2002*. 3

Clause 335 Amendment of s 148 (Definitions for div 1) 4
 (1) Section 148— 5
 insert— 6
 repealed section means section 212A(2), 224(4) 7
 or 225(4) as in force before the commencement of 8
 the *Racing Integrity Act 2016*, section 363. 9
 (2) Section 148, definition *confidential information*, paragraph 10
 (c)— 11
 omit, insert— 12
 (c) whether the person was identified by the 13
 police commissioner under a repealed 14
 section as a participant in a criminal 15
 organisation or as an unsuitable corporation. 16

Clause 336 Amendment of s 149 (Offence to disclose confidential 17
information or copy background document) 18
 Section 149(4), from ‘whether’ to ‘corporation’— 19
 omit, insert— 20
 whether the person was identified by the police 21
 commissioner under a repealed section as a 22
 participant in a criminal organisation or as an 23
 unsuitable corporation 24

Clause 337 Amendment of sch 1 (Dictionary) 25
 Schedule 1, definitions *criminal organisation*, *identified* 26
 participant and *unsuitable corporation*— 27

omit.

1

**Part 25 Amendment of Racing Integrity
 Act 2016**

2

3

Clause 338 Act amended

4

This part amends the *Racing Integrity Act 2016*.

5

**Clause 339 Amendment of s 81 (Suitability of applicants for racing
 bookmaker's licence)**

6

7

Section 81(2), note—

8

omit.

9

Clause 340 Amendment of s 83 (Other matters about suitability)

10

Section 83—

11

insert—

12

- (2) However, the commission may not have regard to
criminal intelligence given by the police
commissioner to the commission under section
98A when deciding the matters to which sections
81 and 82 relate.

13

14

15

16

17

Clause 341 Amendment of s 86 (Conditions for granting application)

18

Section 86(2)—

19

omit.

20

**Clause 342 Omission of s 88 (Information about whether persons are
 identified participants in criminal organisations)**

21

22

Section 88—

23

omit.

24

[s 343]

Clause 343	Amendment of s 89 (Criminal history reports for investigations)	1
		2
	(1) Section 89(1), after ‘history,’—	3
	<i>insert—</i>	4
	including whether the person is, or has been, the	5
	subject of a control order or registered	6
	corresponding control order,	7
	(2) Section 89—	8
	<i>insert—</i>	9
	(4) A report under subsection (2) must, if the person	10
	is, or has been, the subject of a control order or	11
	registered corresponding control order—	12
	(a) state the details of the order; or	13
	(b) be accompanied by a copy of the order.	14
Clause 344	Amendment of s 91 (Decision on application)	15
	Section 91(3)—	16
	<i>omit.</i>	17
Clause 345	Amendment of s 96 (Investigations into suitability of licence holder)	18
		19
	(1) Section 96(2), ‘Subject to subsection (3), the’—	20
	<i>omit, insert—</i>	21
	The	22
	(2) Section 96(3) to (5)—	23
	<i>omit.</i>	24
Clause 346	Amendment of s 97 (Investigation into suitability of associate of licence holder)	25
		26
	(1) Section 97(2), ‘Subject to subsection (3), the’—	27

omit, insert—

The

(2) Section 97(3) to (5)—

omit.

Clause 347 Amendment of s 98 (Criminal history report for investigation)

(1) Section 98(1), after ‘history,’—

insert—

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

(2) Section 98—

insert—

(4) A report under subsection (2) must, if the person
is, or has been, the subject of a control order or
registered corresponding control order—

(a) state the details of the order; or

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

Clause 348 Insertion of new s 98A

After section 98—

insert—

98A Exchange of information

(1) The commission may enter into an arrangement
(an *information-sharing arrangement*) with a
relevant agency for the purposes of sharing or
exchanging information—

(a) held by the commission or the relevant
agency; or

[s 349]

- (b) to which the commission or the relevant agency has access. 1
2
- (2) An information-sharing arrangement may relate only to information that assists— 3
4
 - (a) the commission perform the commission's functions under this Act; or 5
6
 - (b) the relevant agency perform its functions. 7
- (3) Under an information-sharing arrangement, the commission and the relevant agency are, despite another Act or law, authorised to— 8
9
10
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and 11
12
13
 - (b) disclose information to the other party. 14
- (4) The commission may use criminal intelligence given to the commission by the police commissioner under an information-sharing arrangement only for monitoring compliance with this Act. 15
16
17
18
19
- (5) In this section— 20
 - relevant agency* means the following— 21
 - (a) the police commissioner; 22
 - (b) the chief executive of a department; 23
 - (c) a local government; 24
 - (d) a person prescribed by regulation. 25

- Clause 349 Amendment of s 101 (Grounds for cancellation)** 26
- (1) Section 101(1)(f)— 27
 - omit.* 28
 - (2) Section 101— 29
 - insert—* 30

	(3) Criminal intelligence given by the police commissioner to the commission under section 98A can not be the basis of the ground for the cancellation of a racing bookmaker's licence.	1 2 3 4
Clause 350	Omission of s 102 (Immediate cancellation of racing bookmaker's licence)	5 6
	Section 102—	7
	<i>omit.</i>	8
Clause 351	Amendment of s 103 (Show cause notice)	9
	(1) Section 103(3)—	10
	<i>omit.</i>	11
	(2) Section 103(4) and (5)—	12
	<i>renumber</i> as section 103(3) and (4).	13
Clause 352	Amendment of s 106 (Cancellation)	14
	(1) Section 106(2) and (6)—	15
	<i>omit.</i>	16
	(2) Section 106(3) to (5)—	17
	<i>renumber</i> as section 106(2) to (4).	18
Clause 353	Amendment of s 107 (Return of cancelled racing bookmaker's licence)	19 20
	Section 107(1), '102(4)(a) or 106(4)(a)'—	21
	<i>omit, insert—</i>	22
	106(3)(a)	23
Clause 354	Amendment of s 108 (Censuring licence holder)	24
	(1) Section 108(2)—	25

[s 355]

omit. 1

(2) Section 108(3) and (4)— 2

renumber as section 108(2) and (3). 3

Clause 355 Omission of ch 4, pt 2, div 7 (Matters relating to review of decisions) 4
5

Chapter 4, part 2, division 7— 6

omit. 7

Clause 356 Amendment of s 211 (Definitions for division) 8

(1) Section 211— 9

insert— 10

repealed section means section 88(2), 96(4) or 11
97(4) as in force before the commencement. 12

(2) Section 211, definition *confidential information*, paragraph (c)— 13
14

omit, insert— 15

(c) whether the person was identified by the 16
police commissioner under a repealed 17
section as a participant in a criminal 18
organisation or as an unsuitable corporation. 19

Clause 357 Amendment of s 212 (Offence to disclose confidential information or copy background document) 20
21

(1) Section 212(3)(a), after ‘by the person’— 22

insert— 23

, unless the information or background 24
information is criminal intelligence 25

(2) Section 212(4), from ‘whether’ to ‘corporation’— 26

omit, insert— 27

whether the person was identified by the police 1
commissioner under a repealed section as a 2
participant in a criminal organisation or as an 3
unsuitable corporation 4

Clause 358 Replacement of ch 8 hdg 5
Chapter 8, heading— 6
omit, insert— 7

Chapter 8 Transitional 8
provisions for Act 9
No. 12 of 2016 10

Clause 359 Insertion of new ch 9 11
After section 293— 12
insert— 13

Chapter 9 Transitional 14
provisions for 15
Serious and 16
Organised Crime 17
Legislation 18
Amendment Act 19
2016 20

294 Applications not finally decided 21

- (1) This section applies if, immediately before the 22
commencement, the commission had not finally 23
decided an application for the grant of a racing 24
bookmaker’s licence. 25
- (2) The commission must decide the application 26

[s 359]

under this Act as in force after the
commencement. 1
2

295 Show cause process not finally decided 3

- (1) This section applies if— 4
 - (a) the commission had given a show cause 5
notice to a racing bookmaker under section 6
103(1); and 7
 - (b) immediately before the commencement, the 8
commission had not finally dealt with 9
matters relating to the show cause notice 10
under section 105 or 106 (the *show cause* 11
process). 12
- (2) The show cause process must continue under this 13
Act as in force after the commencement. 14

296 Proceedings not finally decided 15

- (1) This section applies if, immediately before the 16
commencement, the following proceedings had 17
been started but not finally dealt with— 18
 - (a) a proceeding before QCAT for a review of a 19
relevant decision; 20
 - (b) a proceeding before the Supreme Court 21
about a relevant decision. 22
- (2) The proceeding is discontinued and the matter is 23
remitted to the commission for the commission to 24
decide again under this Act as in force after the 25
commencement. 26
- (3) QCAT or the Supreme Court must return to the 27
police commissioner any criminal intelligence 28
relating to the proceeding in QCAT's or the 29
Supreme Court's possession or control. 30
- (4) For subsection (1), a proceeding had not been 31
finally dealt with if— 32

-
- (a) QCAT or the Supreme Court had not made a decision; or 1
2
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or 3
4
5
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended. 6
7
8
 - (5) In this section— 9
 - criminal intelligence*** means criminal intelligence within the meaning of repealed section 114(6). 10
11
 - relevant decision*** means a decision— 12
 - (a) for which a review notice mentioned in section 245(6) was given to a person; and 13
14
 - (b) made because the person was not a suitable person to hold a racing bookmaker's licence because the person— 15
16
17
 - (i) was identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a participant in a criminal organisation; or 18
19
20
21
 - (ii) had a business associate or executive associate who was— 22
23
 - (A) if the associate was an individual—identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a participant in a criminal organisation; or 24
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 - (B) if the associate was a corporation—identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a criminal organisation; or 30
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[s 360]

(iii) was identified by the police 1
commissioner under repealed section 2
88(2), 96(4) or 97(4) as an unsuitable 3
corporation. 4

repealed, in relation to a provision of this Act, 5
means the provision as in force immediately 6
before the commencement. 7

Clause 360 Amendment of sch 1 (Dictionary) 8

(1) Schedule 1, definitions *commission decision*, *criminal* 9
organisation, *identified participant* and *unsuitable* 10
corporation— 11

omit. 12

(2) Schedule 1— 13

insert— 14

control order see the *Penalties and Sentences Act* 15
1992, section 161N. 16

criminal intelligence see the Criminal Code, 17
section 86(3). 18

registered corresponding control order see the 19
Penalties and Sentences Act 1992, section 161N. 20

repealed section, for chapter 6, part 1, division 1, 21
see section 211. 22

Part 26 Amendment of Second-hand 23
Dealers and Pawnbrokers Act 24
2003 25

Clause 361 Act amended 26

This part amends the *Second-hand Dealers and Pawnbrokers* 27
Act 2003. 28

Clause 362	Amendment of s 7 (Suitability of applicants and licensees)	1 2
(1)	Section 7(1)(e)—	3
	<i>omit, insert—</i>	4
	(e) is subject to a relevant control order.	5
(2)	Section 7—	6
	<i>insert—</i>	7
	(1A) Without limiting subsection (1), a person is not a	8
	suitable person to hold a licence if the chief	9
	executive decides the person is not suitable	10
	because the person, or an associate of the	11
	person—	12
	(a) is subject to a control order or registered	13
	corresponding control order, other than a	14
	relevant control order; or	15
	(b) has been convicted of an offence against—	16
	(i) the <i>Peace and Good Behaviour Act</i>	17
	1982, section 32, 54 or 75; or	18
	(ii) the <i>Penalties and Sentences Act 1992</i> ,	19
	section 161ZI.	20
	(1B) The chief executive, when deciding whether a	21
	person is a suitable person to hold a licence, may	22
	not have regard to criminal intelligence given by	23
	the commissioner of the police service to the chief	24
	executive under section 111.	25
(3)	Section 7(1A) to (3)—	26
	<i>renumber</i> as section 7(2) to (5).	27
Clause 363	Amendment of s 8 (Investigations about suitability of applicants and licensees)	28 29
(1)	Section 8(2), ‘must’—	30
	<i>omit, insert—</i>	31

[s 364]

	may	1
(2)	Section 8(3)—	2
	<i>omit.</i>	3
(3)	Section 8(4)—	4
	<i>omit, insert—</i>	5
(4)	If the chief executive asks the commissioner for a report under subsection (2), the commissioner must give the report to the chief executive.	6 7 8
(4)	Section 8(7)—	9
	<i>omit, insert—</i>	10
(7)	If the person is, or has been, subject to a control order or registered corresponding control order, the report must—	11 12 13
	(a) state the details of the order; or	14
	(b) be accompanied by a copy of the order.	15
(5)	Section 8(4) to (7)—	16
	<i>renumber</i> as section 8(3) to (6).	17
Clause 364	Replacement of s 9 (Confidentiality of report or information provided by commissioner of police service)	18 19
	Section 9—	20
	<i>omit, insert—</i>	21
	9 Notice of change in criminal history	22
	(1) This section applies if—	23
	(a) the commissioner of the police service reasonably suspects a person is—	24 25
	(i) an applicant or licensee; or	26
	(ii) an associate of an applicant or licensee; and	27 28
	(b) the person's criminal history changes.	29

-
- (2) The commissioner may give the chief executive written notice that the person’s criminal history has changed.

1
2
3
 - (3) The notice must—

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

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 - (4) The chief executive may confirm the commissioner’s suspicions under subsection (1)(a).

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 - (5) For a person who does not have a criminal history, there is taken to be a change in the person’s criminal history if the person acquires a criminal history.

21
22
23
24
 - (6) In this section—

criminal history, in relation to a person, includes a charge of an offence laid against a person that has not been dismissed.

offence includes alleged offence.

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26
27
28
29

9A Use of information obtained under s 8 or 9 30

- (1) This section applies to the chief executive in considering information about a person obtained

31
32

[s 365]

	under section 8 or 9.	1
	(2) Information about the following may be used only for making a decision as to whether an applicant or licensee is, or continues to be, a suitable person to hold a licence—	2 3 4 5
	(a) a conviction of the person;	6
	(b) if the person is subject to a control order or registered corresponding control order—the control order.	7 8 9
	(3) Information about a charge against the person may not be relied on as a basis for making a decision as to whether an applicant or licensee is, or continues to be, a suitable person to hold a licence.	10 11 12 13 14
Clause 365	Amendment of s 12 (Decision on application for a licence)	15 16
	Section 12(5)—	17
	<i>omit.</i>	18
Clause 366	Amendment of s 15 (Decision on application for renewal or restoration of a licence)	19 20
	Section 15(5)—	21
	<i>omit.</i>	22
Clause 367	Amendment of s 19 (Grounds for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence)	23 24 25
	Section 19(2)—	26
	<i>omit, insert—</i>	27
	(2) However, for subsection (1)(d) and section 20, it is not a ground for suspending, cancelling, refusing to renew or restore, or imposing a	28 29 30

	condition on a licence that the licensee, or an associate of the licensee—	1 2
	(a) is convicted of a disqualifying offence for which a conviction is recorded; or	3 4
	(b) becomes subject to a relevant control order.	5
	<i>Notes—</i>	6
	1 See section 15 for refusals to renew or restore licences in the circumstances mentioned in this subsection.	7 8 9
	2 See section 21A for cancellation of licences in the circumstances mentioned in this subsection.	10 11
Clause 368	Omission of s 20A (Immediate cancellation and return of licence)	12 13
	Section 20A—	14
	<i>omit.</i>	15
Clause 369	Amendment of s 21 (Return of licence)	16
	(1) Section 21(1), ‘(other than under section 20A)’—	17
	<i>omit.</i>	18
	(2) Section 21(1), penalty, ‘100 penalty units’—	19
	<i>omit, insert—</i>	20
	20 penalty units	21
Clause 370	Insertion of new s 21A	22
	After section 21—	23
	<i>insert—</i>	24
	21A Automatic cancellation	25
	(1) A licensee’s licence is cancelled if the licensee, or an associate of the licensee—	26 27

[s 371]

	(a) is convicted of a disqualifying offence for which a conviction is recorded; or	1 2
	(b) becomes subject to a relevant control order.	3
	(2) A person whose licence is cancelled under subsection (1) must return the licence to the chief executive within 14 days after the happening of the event mentioned in subsection (1).	4 5 6 7
	Maximum penalty for subsection (2)—20 penalty units.	8 9
Clause 371	Amendment of s 27 (Change of licensee's home address)	10
	(1) Section 27, heading, 'home'—	11
	<i>omit.</i>	12
	(2) Section 27(1)—	13
	<i>omit, insert—</i>	14
	(1) If a licensee changes the licensee's home address, or an address (the register address) mentioned in section 26(2)(a) or (b), the licensee must, within 7 days after the change, give the chief executive—	15 16 17 18
	(a) for a change of home address—notice of the change; or	19 20
	(b) for a change of register address—	21
	(i) signed notice of the change; and	22
	(ii) the licensee's licence.	23
	Maximum penalty—50 penalty units.	24
	(3) Section 27(2), 'subsection (1)(b)'—	25
	<i>omit, insert—</i>	26
	subsection (1)(b)(ii)	27

Clause 372	Omission of ss 107A and 107B	1
	Sections 107A and 107B—	2
	<i>omit.</i>	3
Clause 373	Insertion of new ss 111 and 112	4
	Part 7—	5
	<i>insert—</i>	6
	111 Exchange of information	7
	(1) The chief executive may enter into an	8
	arrangement (an <i>information-sharing</i>	9
	<i>arrangement</i>) with a relevant agency for the	10
	purposes of sharing or exchanging information—	11
	(a) held by the chief executive or the relevant	12
	agency; or	13
	(b) to which the chief executive or the relevant	14
	agency has access.	15
	(2) An information-sharing arrangement may relate	16
	only to information that assists—	17
	(a) the chief executive perform the chief	18
	executive's functions under this Act; or	19
	(b) the relevant agency perform its functions.	20
	(3) Under an information-sharing arrangement, the	21
	chief executive and the relevant agency are,	22
	despite another Act or law, authorised to—	23
	(a) ask for and receive information held by the	24
	other party to the arrangement or to which	25
	the other party has access; and	26
	(b) disclose information to the other party.	27
	(4) The chief executive may use criminal	28
	intelligence, given to the chief executive by the	29
	commissioner of the police service under an	30
	information-sharing arrangement, only for	31

[s 373]

monitoring compliance with this Act. 1

(5) In this section— 2

relevant agency means the following— 3

(a) the commissioner of the police service; 4

(b) the chief executive of a department; 5

(c) a local government; 6

(d) a person prescribed by regulation. 7

112 Confidentiality 8

(1) This section applies if a person gains confidential information through involvement in the administration of this Act. 9
10
11

(2) The person must not make a record of the information or disclose the information to another person, other than under subsection (4). 12
13
14

Maximum penalty—35 penalty units. 15

(3) Without limiting subsection (1), a person gains confidential information through involvement in the administration of this Act if the person gains the information because of being, or an opportunity given by being— 16
17
18
19
20

(a) the chief executive; or 21

(b) a public service employee employed in the department; or 22
23

(c) a person engaged by the chief executive for this Act. 24
25

(4) A person may make a record of confidential information or disclose it to another person— 26
27

(a) for this Act; or 28

(b) to discharge a function under another law; 29
or 30

	(c) for a proceeding in a court or QCAT; or	1
	(d) if authorised by a court or QCAT in the interests of justice; or	2 3
	(e) if required or permitted by law; or	4
	(f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates.	5 6 7 8
(5)	The chief executive must destroy the following as soon as practicable after it is no longer needed for the purpose for which it was requested or given—	9 10 11
	(a) a criminal history report about a person;	12
	(b) a copy of a control order or registered corresponding control order accompanying a criminal history report about a person;	13 14 15
	(c) a notice given under section 9(2) about a person.	16 17
(6)	The <i>Public Records Act 2002</i> does not apply to the documents mentioned in subsection (5).	18 19
(7)	In this section—	20
	<i>confidential information</i> —	21
	(a) includes information about a person's affairs; but	22 23
	(b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.	24 25 26 27
Clause 374	Insertion of new pt 9, div 5	28
	Part 9—	29
	<i>insert</i> —	30

[s 374]

Division 5	Transitional provisions for	1
	Serious and Organised	2
	Crime Legislation	3
	Amendment Act 2016	4
140 Applications not finally decided		5
(1) This section applies if, immediately before the		6
commencement, the chief executive had not		7
finally decided an application for the grant,		8
renewal or restoration of a licence.		9
(2) The chief executive must decide the application		10
under this Act as in force after the		11
commencement.		12
141 Proceedings not finally decided		13
(1) This section applies if immediately before the		14
commencement the following proceedings had		15
been started but not finally dealt with—		16
(a) a proceeding before QCAT for a review of a		17
decision mentioned in repealed section		18
107A(1);		19
(b) a proceeding before the Supreme Court		20
about a decision mentioned in repealed		21
section 107A(1).		22
(2) The proceeding is discontinued and the matter is		23
remitted to the chief executive for the chief		24
executive to decide again under this Act as in		25
force after the commencement.		26
(3) QCAT or the Supreme Court must return to the		27
commissioner any criminal intelligence relating		28
to the proceeding in QCAT's or the Supreme		29
Court's possession or control.		30
(4) For subsection (1), a proceeding had not been		31

[s 375]

	finally dealt with if—	1
	(a) QCAT or the Supreme Court had not made a decision; or	2 3
	(b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or	4 5 6
	(c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.	7 8 9
	(5) In this section—	10
	<i>criminal intelligence</i> means criminal intelligence within the meaning of repealed section 107A(6).	11 12
	<i>repealed</i> , in relation to a provision of this Act, means the provision as in force immediately before the commencement.	13 14 15
Clause 375	Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)	16 17
	(1) Schedule 1, before item 1—	18
	<i>insert—</i>	19
	1A chapter 9A (Consorting)	20
	1B section 76 (Recruiting person to become participant in criminal organisation)	21 22
	(2) Schedule 1, item 8—	23
	<i>omit.</i>	24
	(3) Schedule 1, items 1A to 12—	25
	<i>renumber</i> as schedule 1, items 1 to 13.	26
Clause 376	Amendment of sch 3 (Dictionary)	27
	(1) Schedule 3, definitions <i>criminal organisation</i> and <i>identified participant</i> —	28 29

[s 376]

<i>omit.</i>	1
(2) Schedule 3—	2
<i>insert—</i>	3
<i>control order</i> see the <i>Penalties and Sentences Act 1992</i> , section 161N.	4 5
<i>criminal intelligence</i> see the Criminal Code, section 86(3).	6 7
<i>registered corresponding control order</i> see the <i>Penalties and Sentences Act 1992</i> , section 161N.	8 9
<i>relevant control order</i> , in relation to a licence, means a control order or registered corresponding control order that restricts the person to whom the order applies from carrying on a business, engaging in an occupation or performing an activity that requires the licence.	10 11 12 13 14 15
(3) Schedule 3, definition <i>disqualifying offence</i> —	16
<i>insert—</i>	17
(ba) an offence that is—	18
(i) a prescribed offence within the meaning of the <i>Penalties and Sentences Act 1992</i> , section 161N; and	19 20 21
(ii) committed with a serious organised crime circumstance of aggravation within the meaning of the <i>Penalties and Sentences Act 1992</i> , section 161Q; or	22 23 24 25 26
(4) Schedule 3, definition <i>disqualifying offence</i> , paragraphs (ba) and (c)—	27 28
<i>renumber</i> as schedule 3, definition <i>disqualifying offence</i> , paragraphs (c) and (d).	29 30

Part 27	Amendment of Security Providers Act 1993	1
		2
Clause 377	Act amended	3
	This part amends the <i>Security Providers Act 1993</i> .	4
Clause 378	Amendment of s 11 (Entitlement to licences—individuals)	5
(1)	Section 11(3)—	6
	<i>omit, insert—</i>	7
(3)	In deciding whether a person is an appropriate person to hold a licence, the chief executive—	8
	(a) may only consider the matters mentioned in subsections (4) and (5); and	10
	(b) may not have regard to criminal intelligence given to the chief executive by the Commissioner under section 48.	11
(2)	Section 11(4)(b)—	12
	<i>omit.</i>	13
(3)	Section 11(4)(f) and (g)—	14
	<i>omit, insert—</i>	15
	(f) any other information indicating—	16
	(i) the person is a risk to public safety; or	17
	(ii) the holding of the licence by the person would be contrary to the public interest.	18
(4)	Section 11(4)(c) to (f)—	19
	<i>renumber</i> as section 11(4)(b) to (e).	20
(5)	Section 11(5)—	21
	<i>omit, insert—</i>	22
		23
		24
		25
		26
		27

[s 379]

- | | | |
|-----|-------------------------------------------------------------------------------------------------------------------------------------|------------------|
| (5) | A person is not an appropriate person to hold a licence if the person— | 1
2 |
| (a) | has, within 10 years of applying for the licence, been convicted of a disqualifying offence for which a conviction was recorded; or | 3
4
5
6 |
| (b) | is subject to a relevant control order. | 7 |
| (6) | Section 11(6)—
<i>omit.</i> | 8
9 |
| (7) | Section 11(7)—
<i>renumber</i> as section 11(6). | 10
11 |

- | | | |
|-------------------|-----------------------------------------------------------------------------------------------------------------------|----------------|
| Clause 379 | Amendment of s 12 (Inquiries about person's appropriateness to hold licence) | 12
13 |
| (1) | Section 12(2)—
<i>omit.</i> | 14
15 |
| (2) | Section 12(3), 'The chief executive may also'—
<i>omit, insert—</i> | 16
17 |
| | Without limiting subsection (1), the chief executive may | 18
19 |
| (3) | Section 12(4)—
<i>omit, insert—</i> | 20
21 |
| (4) | Subject to subsection (4), the Commissioner must comply with a request made under subsection (2). | 22
23 |
| (4) | Section 12—
<i>insert—</i> | 24
25 |
| (5A) | If the person is, or has been, subject to a control order or registered corresponding control order, the report must— | 26
27
28 |
| (a) | state the details of the order; or | 29 |

[s 380]

	(b) be accompanied by a copy of the order.	1
(5)	Section 12(3) to (5A)—	2
	<i>renumber</i> as section 12(2) to (5).	3
Clause 380	Amendment of s 12AA (Costs of criminal history report)	4
	Section 12AA(1), ‘section 12(3)’—	5
	<i>omit, insert</i> —	6
	section 12(2)	7
Clause 381	Amendment of s 12A (Notice of change in criminal history)	8
	Section 12A(3)—	9
	<i>omit, insert</i> —	10
	(3) The notice must—	11
	(a) state the following details—	12
	(i) the person’s name and any other name	13
	the Commissioner believes the person	14
	may use or may have used;	15
	(ii) the person’s date and place of birth;	16
	(iii) a brief description of the nature of the	17
	offence giving rise to the conviction or	18
	charge to which the change relates; and	19
	(b) if the change includes the person becoming	20
	subject to a control order or registered	21
	corresponding control order—	22
	(i) state the details of the order; or	23
	(ii) be accompanied by a copy of the order.	24
		25

[s 382]

Clause 382	Omission of s 12B (Commissioner may give investigative information)	1
		2
	Section 12B—	3
	<i>omit.</i>	4
Clause 383	Amendment and renumbering of s 12C (Use of information obtained under s 12, 12A or 12B)	5
		6
	(1) Section 12C, heading, ‘s 12, 12A or 12B’—	7
	<i>omit, insert—</i>	8
	s 12 or 12A	9
	(2) Section 12C(1), ‘section 12, 12A or 12B’—	10
	<i>omit, insert—</i>	11
	section 12 or 12A	12
	(3) Section 12C(2)—	13
	<i>omit, insert—</i>	14
	(2) Information about the following may be used only	15
	for making a decision about whether the person is,	16
	or continues to be, an appropriate person to hold a	17
	licence—	18
	(a) a conviction of the person;	19
	(b) if the person is subject to a control order or	20
	registered corresponding control order—the	21
	control order.	22
	(4) Section 12C(4)—	23
	<i>omit.</i>	24
	(5) Section 12C(8), from ‘, other than’ to ‘or 12B’—	25
	<i>omit, insert—</i>	26
	or 12A	27
	(6) Section 12C—	28
	<i>insert—</i>	29

[s 384]

	(9) The <i>Public Records Act 2002</i> does not apply to information mentioned in subsection (7).	1 2
	(7) Section 12C(5) to (9)— <i>renumber</i> as section 12C(4) to (8).	3 4
	(8) Section 12C— <i>renumber</i> as section 12B.	5 6
Clause 384	Amendment of s 13 (Entitlement to licences—corporations or firms)	7 8
	(1) Section 13(3A)— <i>omit, insert—</i>	9 10
	(3A) For subsection (3)(b), in deciding whether a corporation is an appropriate person to hold a security firm licence, the chief executive—	11 12 13
	(a) must consider the following matters—	14
	(i) whether the corporation has been convicted of a disqualifying offence for which a conviction has not been recorded and that has not been quashed or set aside by a court;	15 16 17 18 19
	(ii) any other information indicating—	20
	(A) the corporation is a risk to public safety; or	21 22
	(B) the holding of the licence by the corporation would be contrary to the public interest; but	23 24 25
	(b) may not have regard to criminal intelligence given to the chief executive by the Commissioner under section 48.	26 27 28
	(2) Section 13(5), ‘(6), 12 and 12C’— <i>omit, insert—</i>	29 30
	(5), 12 and 12B	31

[s 385]

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| (3) Section 13(6)— | 1 |
| <i>omit, insert—</i> | 2 |
| (6) A corporation is not an appropriate person to hold
a security firm licence if the corporation— | 3
4 |
| (a) has, within 10 years of applying for the
licence, been convicted of a disqualifying
offence for which a conviction has been
recorded; or | 5
6
7
8 |
| (b) is subject to a relevant control order. | 9 |

Clause 385	Amendment of s 14 (Decision on application)	10
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- | | |
|-----------------------------------|----|
| (1) Section 14(7)— | 11 |
| <i>omit.</i> | 12 |
| (2) Section 14(8)— | 13 |
| <i>renumber</i> as section 14(7). | 14 |

Clause 386	Amendment of s 21 (Grounds for suspension, cancellation or refusal to renew)	15 16
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- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| Section 21(3)— | 17 |
| <i>omit, insert—</i> | 18 |
| (3) Despite subsection (1)(g), the following are not
grounds for cancellation of a licence under section
22— | 19
20
21 |
| (a) the licensee, or another person required to
be an appropriate person in relation to the
licence, is convicted of a disqualifying
offence; | 22
23
24
25 |
| (b) the licensee, or another person required to
be an appropriate person in relation to the
licence, becomes subject to a relevant
control order. | 26
27
28
29 |

	<i>Note—</i>	1
	See section 24 for cancellation of a licence in the circumstances mentioned in this subsection.	2 3
Clause 387	Amendment of s 22 (Procedure for suspension, cancellation or refusal to renew)	4 5
	(1) Section 22(3)—	6
	<i>omit.</i>	7
	(2) Section 22(4)(a), note—	8
	<i>omit.</i>	9
	(3) Section 22(6)—	10
	<i>omit.</i>	11
	(4) Section 22(4) to (7)—	12
	<i>renumber</i> as section 22(3) to (5).	13
Clause 388	Omission of s 23A (Cancellation of licence—identified participant in criminal organisation)	14 15
	Section 23A—	16
	<i>omit.</i>	17
Clause 389	Replacement of s 24 (Automatic cancellation on conviction)	18 19
	Section 24—	20
	<i>omit, insert—</i>	21
	24 Automatic cancellation	22
	(1) A licensee's licence is cancelled if the licensee, or another person required to be an appropriate person in relation to the licence—	23 24 25
	(a) is convicted of a disqualifying offence for which a conviction is recorded; or	26 27

[s 390]

	(b) becomes subject to a relevant control order.	1
(2)	A person whose licence is cancelled under subsection (1) must return the licence to the chief executive within 14 days after the happening of the event mentioned in subsection (1).	2 3 4 5
	Maximum penalty for subsection (2)—20 penalty units.	6 7
Clause 390	Omission of ss 26A and 26B	8
	Sections 26A and 26B—	9
	<i>omit.</i>	10
Clause 391	Replacement of s 48 (Confidentiality of information)	11
	Section 48—	12
	<i>omit, insert—</i>	13
	48 Exchange of information	14
	(1) The chief executive may enter into an arrangement (an <i>information-sharing arrangement</i>) with a relevant agency for the purposes of sharing or exchanging information—	15 16 17 18
	(a) held by the chief executive or the relevant agency; or	19 20
	(b) to which the chief executive or the relevant agency has access.	21 22
	(2) An information-sharing arrangement may relate only to information that assists—	23 24
	(a) the chief executive perform the chief executive's functions under this Act; or	25 26
	(b) the relevant agency perform its functions.	27
	(3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—	28 29 30

-
- (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
- (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence, given to the chief executive by the Commissioner under an information-sharing arrangement, only for monitoring compliance with this Act.
- (5) In this section—
relevant agency means the following—
- (a) the Commissioner;
- (b) the chief executive of a department;
- (c) a local government;
- (d) a person prescribed by regulation.

48A Confidentiality

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act.
- (2) The person must not make a record of the information or disclose the information to another person, other than under subsection (4).
- Maximum penalty—35 penalty units.
- (3) Without limiting subsection (1), a person gains confidential information through involvement in the administration of this Act if the person gains the information because of being, or an opportunity given by being—
- (a) the chief executive; or
- (b) a public service employee employed in the department; or

[s 392]

	(c) a person engaged by the chief executive for this Act.	1 2
(4)	A person may make a record of confidential information or disclose it to another person—	3 4
	(a) for this Act; or	5
	(b) to discharge a function under another law; or	6 7
	(c) for a proceeding in a court or QCAT; or	8
	(d) if authorised by a court or QCAT in the interests of justice; or	9 10
	(e) if required or permitted by law; or	11
	(f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates.	12 13 14 15
(5)	In this section—	16
	<i>confidential information</i> —	17
	(a) includes information about a person's affairs; but	18 19
	(b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.	20 21 22 23
Clause 392	Insertion of new pt 10	24
	After section 68—	25
	<i>insert</i> —	26

Part 10	Transitional provisions	1
	for Serious and	2
	Organised Crime	3
	Legislation	4
	Amendment Act 2016	5
69	Applications not finally decided	6
(1)	This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant or renewal of a licence.	7 8 9 10
(2)	The chief executive must decide the application under this Act as in force after the commencement.	11 12 13
70	Show cause process not finally decided	14
(1)	This section applies if—	15
(a)	the chief executive had given a show cause notice to a licensee under section 22; and	16 17
(b)	immediately before the commencement, the chief executive had not finally dealt with matters relating to the show cause notice under section 22 (the <i>show cause process</i>).	18 19 20 21
(2)	The show cause process must continue under this Act as in force after the commencement.	22 23
71	Proceedings not finally decided	24
(1)	This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—	25 26 27

[s 392]

-
- (a) a proceeding before QCAT for a review of a decision mentioned in repealed section 26A(1);
 - (b) a proceeding before the Supreme Court about a decision mentioned in repealed section 26A(1).
 - (2) The proceeding is discontinued and the matter is remitted to the chief executive for the chief executive to decide again under this Act as in force after the commencement.
 - (3) QCAT or the Supreme Court must return to the commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.
 - (4) For subsection (1), a proceeding had not been finally dealt with if—
 - (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.
 - (5) In this section—

criminal intelligence means criminal intelligence within the meaning of schedule 2, repealed definition *criminal intelligence*.

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

Clause 393	Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)	1
		2
(1)	Schedule 1, item 1, ‘Unlawful assemblies—breaches’—	3
	<i>omit, insert—</i>	4
	Breaches	5
(2)	Schedule 1, item 16—	6
	<i>omit.</i>	7
(3)	Schedule 1—	8
	<i>insert—</i>	9
	1A chapter 9A (Consorting)	10
(4)	Schedule 1, items 1A to 21—	11
	<i>renumber</i> as schedule 1, items 2 to 23.	12
Clause 394	Amendment of sch 2 (Dictionary)	13
(1)	Schedule 2, definitions <i>criminal intelligence</i> , <i>criminal organisation</i> , <i>identified participant</i> and <i>investigative information</i> —	14
	<i>omit.</i>	15
		16
	<i>omit.</i>	17
(2)	Schedule 2—	18
	<i>insert—</i>	19
	control order see the <i>Penalties and Sentences Act 1992</i> , section 161N.	20
		21
	criminal intelligence see the Criminal Code, section 86(3).	22
		23
	registered corresponding control order see the <i>Penalties and Sentences Act 1992</i> , section 161N.	24
		25
	relevant control order , in relation to a licence, means a control order or registered corresponding	26
	control order that restricts the person to whom the	27
	order applies from carrying on a business,	28
	engaging in an occupation or performing an	29
		30

[s 395]

- activity that requires the licence. 1
- (3) Schedule 2, definition *disqualifying offence*, paragraph (a)— 2
- insert—* 3
- (iiiia) that is— 4
- (A) a prescribed offence within the 5
- meaning of the *Penalties and Sentences* 6
- Act 1992*, section 161N; and 7
- (B) committed with a serious organised 8
- crime circumstance of aggravation 9
- within the meaning of the *Penalties* 10
- and Sentences Act 1992*, section 161Q; 11
- or 12
- (4) Schedule 2, definition *disqualifying offence*, paragraph 13
- (a)(iiiia) to (v)— 14
- renumber* as schedule 2, definition *disqualifying offence*, 15
- paragraph (a)(iv) to (vi). 16

Part 28 Amendment of State Penalties Enforcement Regulation 2014 17

18

- Clause 395 Regulation amended 19**
- This part amends the *State Penalties Enforcement Regulation* 20
- 2014*. 21
- Clause 396 Amendment of sch 1 (Infringement notice offences and 22**
- finer for nominated laws) 23**
- (1) Schedule 1, entry for the *Motor Dealers and Chattel* 24
- Auctioneers Act 2014*, entries for sections 63(5) and 182(5)— 25
- omit*. 26
- (2) Schedule 1, entry for the *Second-hand Dealers and* 27
- Pawnbrokers Act 2003*, entry for section 21(1), column 2, 28
- ‘5’— 29

omit, insert— 1

2 2

(3) Schedule 1, entry for the *Second-hand Dealers and Pawnbrokers Act 2003—* 3
4

insert— 5

s 21A(2) 2

(4) Schedule 1, entry for *Tattoo Parlours Act 2013—* 6

insert— 7

s 34A(2) 2 -

(5) Schedule 1, entry for *Tattoo Parlours Act 2013*, entry for section 11(6), ‘s 11(6)’— 8
9

omit, insert— 10

s 11(11) 11

(6) Schedule 1, entry for *Tattoo Parlours Act 2013*, authorised person for service of infringement notices entry, ‘*Tattoo Parlours Act 2013*’— 12
13
14

omit, insert— 15

Tattoo Industry Act 2013 16

(7) Schedule 1, entry for *Tattoo Parlours Act 2013*, heading, ‘Parlours’— 17
18

omit, insert— 19

Industry 20

Part 29 Amendment of Summary Offences Act 2005 21 22

Clause 397 Act amended 23

This part amends the *Summary Offences Act 2005*. 24

[s 398]

Clause 398	Insertion of new pt 2, div 1B	1
	Part 2—	2
	<i>insert—</i>	3
	Division 1B	4
	Offence about wearing or	5
	carrying particular	6
	clothing, jewellery or	7
	accessories in public	8
	places	
	10B Objects of division	9
	The objects of this division are, as far as	10
	practicable—	11
	(a) to ensure members of the public may	12
	lawfully use and pass through public places	13
	without experiencing fear or intimidation	14
	because others are visibly wearing or	15
	carrying prohibited items; and	16
	(b) to reduce the likelihood of public disorder or	17
	acts of violence in public places.	18
	10C Wearing or carrying prohibited item in a public	19
	place	20
	(1) A person in a public place must not wear or carry	21
	a prohibited item so that the item can be seen.	22
	Maximum penalty—	23
	(a) for a first offence—40 penalty units or 6	24
	months imprisonment; or	25
	(b) for a second offence—60 penalty units or 9	26
	months imprisonment; or	27
	(c) for a third or later offence—100 penalty	28
	units or 12 months imprisonment.	29

-
- (2) A person who is in or on a vehicle that is in a public place must not wear or carry a prohibited item so that the item can be seen from the public place. 1
2
3
4
- Maximum penalty— 5
- (a) for a first offence—40 penalty units or 6 months imprisonment; or 6
7
- (b) for a second offence—60 penalty units or 9 months imprisonment; or 8
9
- (c) for a third or later offence—100 penalty units or 12 months imprisonment. 10
11
- (3) In this section— 12
- prohibited item* see the *Liquor Act 1992*, section 173EA. 13
14

10D Defence for s 10C

- For section 10C(1) and (2), it is a defence for the person to prove— 15
16
17
- (a) the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, educational, legal or law enforcement purpose; and 18
19
20
21
- (b) the person's conduct was, in the circumstances, reasonable for that purpose. 22
23

10E Forfeiture of prohibited item to which offence relates

On a person being convicted of an offence against section 10C, a prohibited item to which the offence relates that is lawfully in the possession of the Queensland Police Service is forfeited to the State. 24
25
26
27
28
29
30

[s 399]

Note—

Under the *Police Powers and Responsibilities Act 2000*,
a police officer has the power to seize all or part of a
thing that may provide evidence of the commission of
an offence in particular circumstances. See, for example,
sections 29(2) and 31(5) of that Act.

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2
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**Part 30 Amendment of Tattoo Parlours
 Act 2013**

7
8

Division 1 Preliminary

9

Clause 399 Act amended

10

This part amends the *Tattoo Parlours Act 2013*.

11

**Division 2 Amendments commencing on
 assent**

12
13

Clause 400 Amendment of s 11 (Licence applications)

14

Section 11(4)(c)—
omit.

15
16

Clause 401 Amendment of s 18 (Term of licence)

17

Section 18(3), note—
omit.

18
19

Clause 402 Amendment of s 33 (Suspension of licence)

20

Section 33(1), note—
omit.

21
22

Clause 403	Amendment of s 34 (Cancellation of licence)	1
	Section 34(1), note—	2
	<i>omit.</i>	3
Clause 404	Amendment of s 41 (Application for exhibition permit)	4
	Section 41(4)(c)—	5
	<i>omit.</i>	6
Clause 405	Amendment of s 42 (Decision about application for exhibition permit)	7
	Section 42(3)—	8
	<i>omit, insert—</i>	9
	(3) The chief executive may decide not to grant the permit if the chief executive is satisfied the application for the permit was not properly made.	10
		11
		12
		13
Clause 406	Amendment of s 44 (Application for visiting tattooist permit)	14
	Section 44(3)—	15
	<i>omit, insert—</i>	16
	(3) An application for a visiting tattooist permit may not be made by an individual who is under 18 years.	17
		18
		19
		20
Clause 407	Amendment of s 45 (Decision about application for visiting tattooist permit)	21
	Section 45(3)—	22
	<i>omit, insert—</i>	23
	(3) The chief executive may decide not to grant the permit if the chief executive is satisfied the application was not properly made.	24
		25
		26
		27

[s 408]

Clause 408	Amendment of s 56 (Review by QCAT of particular decisions of chief executive)	1 2
	Section 56(1), ‘, other than a controlled person,’—	3
	<i>omit.</i>	4
Clause 409	Amendment of sch 1 (Dictionary)	5
	Schedule 1, definition <i>controlled person</i> —	6
	<i>omit.</i>	7
Division 3	Amendments commencing 3 months after assent	8 9
Clause 410	Amendment of s 1 (Short title)	10
	Section 1, ‘ <i>Tattoo Parlours Act 2013</i> ’—	11
	<i>omit, insert—</i>	12
	<i>Tattoo Industry Act 2013</i>	13
Clause 411	Replacement of ss 3 and 4	14
	Sections 3 and 4—	15
	<i>omit, insert—</i>	16
	3 Main purpose of Act	17
	The main purpose of this Act is to regulate the body art tattooing industry to minimise the risk of criminal activity in the industry.	18 19 20
	4 Definitions	21
	The dictionary in schedule 1 defines particular words used in this Act.	22 23

Clause 412	Amendment of s 6 (Body art tattooing businesses to be licensed)	1
		2
	Section 6(4)—	3
	<i>insert—</i>	4
	(d) otherwise in circumstances prescribed by regulation.	5
		6
Clause 413	Amendment of s 7 (Body art tattooists to be licensed)	7
	Section 7(3)—	8
	<i>insert—</i>	9
	(c) otherwise in circumstances prescribed by regulation.	10
		11
Clause 414	Amendment of s 11 (Licence applications)	12
	(1) Section 11(5)(d) and example—	13
	<i>omit, insert—</i>	14
	(d) be accompanied by evidence of the applicant's identity that is satisfactory to the chief executive; and	15
		16
		17
	<i>Example for paragraph (d)—</i>	18
	The chief executive may adopt a system under which—	19
	(a) points are assigned to the applicant for producing particular evidence of identity; and	20
		21
	(b) the applicant is required to achieve a total number of points stated by the chief executive.	22
		23
	(2) Section 11(5)(e) and (f)—	24
	<i>omit.</i>	25
	(3) Section 11(5)(g) and (h)—	26
	<i>renumber</i> as section 11(5)(e) and (f).	27
	(4) Section 11—	28
	<i>insert—</i>	29

[s 415]

- (5A) If, before or when the application is made, the chief executive requires the payment of costs under section 15A(1), the application must also be accompanied by the amount of the costs required to be paid.
- (5B) An application for a licence may be considered by the chief executive only if—
- (a) the commissioner holds the applicant's fingerprints and palm prints taken under section 35E; or
 - (b) the applicant consents to having the applicant's fingerprints and palm prints taken by the commissioner under section 35E.
- (5C) If a regulation prescribes a fee for taking an applicant's fingerprints under section 35E, the application must be accompanied by the fee.
- (5D) However, subsection (8) does not apply if the commissioner already holds the relevant person's fingerprints taken under section 35E.
- (5E) If an applicant's fingerprints are not taken under section 35E for the application, the chief executive must refund to the applicant any fee paid under subsection (8).
- (5) Section 11(5A) to (8)—
renumber as section 11(6) to (13).

Clause 415 Insertion of new ss 11A and 11B

Part 3, division 2—

insert—

11A Additional information required for applications for operator licences

- (1) In addition to the matters mentioned in section 11(5), an application for an operator licence

-
- | | |
|-------------------------------------------------|----|
| must— | 1 |
| (a) for fixed premises—state the address of the | 2 |
| fixed premises proposed to be licensed; and | 3 |
| (b) for mobile premises— | 4 |
| (i) state a description of the mobile | 5 |
| premises proposed to be licensed that | 6 |
| includes the registration number if the | 7 |
| premises are a vehicle that is required | 8 |
| to be registered; and | 9 |
| (ii) state the address of a fixed premises at | 10 |
| which records relating to the body art | 11 |
| tattooing business proposed to be | 12 |
| carried on at the mobile premises may | 13 |
| be inspected; and | 14 |
| (c) state the business name of the body art | 15 |
| tattooing business carried on or proposed to | 16 |
| be carried on at the proposed licensed | 17 |
| premises; and | 18 |
| (d) state the name and residential address of | 19 |
| each staff member employed, or proposed to | 20 |
| be employed, to work at the proposed | 21 |
| licensed premises; and | 22 |
| (e) if the business to which the application | 23 |
| relates is owned or operated by or on behalf | 24 |
| of a corporation— | 25 |
| (i) state the name and ACN or ARBN, if | 26 |
| any, of the corporation and the names | 27 |
| of the directors or members of its | 28 |
| governing body; and | 29 |
| (ii) be accompanied by evidence in the | 30 |
| approved form that the applicant has | 31 |
| been nominated by the corporation to | 32 |
| be the premises manager; and | 33 |

[s 416]

- (f) if the business to which the application relates is owned or operated by or on behalf of a partnership—
 - (i) state the trading name of the partnership and the names of the partners, including any silent partners; and
 - (ii) be accompanied by evidence in the approved form that the applicant has been nominated by the partnership to be the premises manager; and
- (g) if the business to which the application relates is owned or operated by or on behalf of a trust—
 - (i) state the name of each trustee; and
 - (ii) if a trustee is a corporation—state the information mentioned in paragraph (e)(i); and
 - (iii) be accompanied by evidence in the approved form that the applicant has been nominated by the trustees to be the premises manager.

11B Additional information required for applications for tattooist licences

In addition to the matters mentioned in section 11(5), an application for a tattooist licence must be accompanied by evidence in the approved form of previous, existing or impending employment as a body art tattooist.

Clause 416	Replacement of s 12 (Statement as to close associates of applicant for operator licence)	30 31
	Section 12—	32

omit, insert—

12 Criteria for granting application

- (1) The chief executive may grant an application for a licence only if the chief executive is satisfied—
 - (a) the application is properly made; and
 - (b) the applicant is a fit and proper person to hold the licence; and
 - (c) it would not be contrary to the public interest for the licence to be granted.
- (2) In deciding whether the applicant is a fit and proper person to hold the licence, the chief executive must have regard to the following—
 - (a) the criminal history of the applicant;
 - (b) in dealings in which the person has been involved, whether the person has—
 - (i) shown dishonesty or lack of integrity; or
 - (ii) used harassing tactics;
 - (c) information about the person that indicates—
 - (i) the person is a risk to public safety; or
 - (ii) the holding of a licence by the person would be contrary to the public interest;
 - (d) whether the applicant is subject to an order under the *Public Health (Infection Control for Personal Appearance Services) Act 2003* made in connection with the carrying out of skin penetration procedures;
 - (e) whether the applicant holds, or has held, a licence, permit or other authority under an Act administered by a relevant Minister that has been suspended, cancelled or revoked;

[s 416]

- (f) whether the applicant is disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister; 1
2
3
4
- (g) whether the person has taken advantage, as a debtor, of the laws of bankruptcy; 5
6
- (h) anything else relevant to the person's suitability to hold the licence. 7
8
- (3) A person is not a fit and proper person to hold a licence if the person— 9
10
 - (a) within 10 years before applying for the licence, has been convicted of a prescribed offence for which a conviction was recorded; or 11
12
13
14
 - (b) is subject to a relevant control order. 15
- (4) The chief executive may not have regard to criminal intelligence in deciding whether— 16
17
 - (a) a person is a fit and proper person to hold a licence; or 18
19
 - (b) it would be contrary to the public interest for the licence to be granted. 20
21

12A Additional criteria for operator licences 22

Without limiting section 12(2), in deciding whether a person is a fit and proper person to hold an operator licence, the chief executive must also have regard to the following— 23
24
25
26

- (a) whether the applicant has been convicted of an offence against section 6(1) or (3) or 8(1); 27
28
29
- (b) for an application for a body art tattooing business owned or operated by or on behalf of a corporation—whether the corporation is the subject of a winding-up order or a 30
31
32
33

- corporation for which a controller or administrator has been appointed; 1
2
- (c) whether the applicant is, or was at any time 3
in the last 3 years, a director of or concerned 4
in the management of an 5
externally-administered body corporate 6
under the Corporations Act other than the 7
voluntary winding-up of the body corporate; 8
- (d) whether a closure order under section 47 is, 9
or has been, in force in relation to the 10
proposed licensed premises. 11

12B Additional criteria for tattooist licences 12

Without limiting section 12(2), in deciding 13
whether a person is a fit and proper person to hold 14
a tattooist licence, the chief executive must also 15
have regard to whether the applicant has been 16
convicted of an offence against section 7(1) or (2). 17

Clause 417 Amendment, relocation and renumbering of s 13 18 (Fingerprinting and palm printing of applicants) 19

- (1) Section 13(1) and (2), after ‘licence’— 20
insert— 21

, or the renewal of a licence, 22
- (2) Section 13— 23
relocate to part 3, division 6B, as inserted by this Act, and 24
renumber as section 35E. 25

Clause 418 Amendment, relocation and renumbering of s 14 26 (Destruction of fingerprints and palm prints) 27

- (1) Section 14(1), (3) and (5), ‘section 13’— 28
omit, insert— 29

section 35E 30

[s 419]

- | | |
|----------------------------------------------------------------------|---|
| (2) Section 14— | 1 |
| <i>relocate</i> to part 3, division 6B, as inserted by this Act, and | 2 |
| <i>renumber</i> as section 35F. | 3 |

Clause 419	Replacement of ss 15 and 16	4
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- | | |
|----------------------|---|
| Sections 15 and 16— | 5 |
| <i>omit, insert—</i> | 6 |

15	Inquiries about applicants, licensees and relevant persons	7
		8

- | | | |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| (1) | The chief executive may make inquiries about an applicant for a licence, a licensee or a relevant person for the applicant or licensee to assist in deciding— | 9 |
| | | 10 |
| | | 11 |
| | | 12 |
| (a) | whether the applicant or licensee is, or continues to be, a fit and proper person to hold the licence; and | 13 |
| | | 14 |
| | | 15 |
| (b) | whether it is contrary to the public interest for the licence to be granted to the applicant or held by the licensee. | 16 |
| | | 17 |
| | | 18 |
| (2) | Without limiting subsection (1), the chief executive may ask the commissioner to give the chief executive the following written information about the applicant, licensee or relevant person— | 19 |
| | | 20 |
| | | 21 |
| | | 22 |
| (a) | a report about the applicant's, licensee's or relevant person's criminal history; | 23 |
| | | 24 |
| (b) | a brief description of the nature of the offence giving rise to a conviction or charge mentioned in the applicant's, licensee's or relevant person's criminal history. | 25 |
| | | 26 |
| | | 27 |
| | | 28 |
| (3) | The commissioner must comply with the request. | 29 |
| (4) | If the applicant, licensee or relevant person is, or has been, subject to a control order or a registered corresponding control order, the commissioner's report must— | 30 |
| | | 31 |
| | | 32 |
| | | 33 |

(a) state the details of the order; or	1
(b) be accompanied by a copy of the order.	2
(5) The duty imposed on the commissioner to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.	3 4 5 6
(6) In this section—	7
<i>applicant for a licence</i> includes an applicant for the renewal of a licence.	8 9
<i>offence</i> includes alleged offence.	10
15A Costs of criminal history report	11
(1) The chief executive may require an applicant for a licence or a licensee to pay the reasonable, but no more than actual, costs of obtaining a report under section 15(2) about—	12 13 14 15
(a) the applicant or licensee; or	16
(b) a relevant person for the applicant or licensee.	17 18
(2) The chief executive must refund to an applicant an amount paid under subsection (1) if—	19 20
(a) the chief executive refuses the application without asking for the report; or	21 22
(b) the applicant withdraws the application before the chief executive asks for the report.	23 24 25
(3) In this section—	26
<i>applicant for a licence</i> includes an applicant for the renewal of a licence.	27 28
15B Notice of change in criminal history	29
(1) This section applies if—	30

[s 419]

- (a) the commissioner reasonably suspects a person is the holder of, or an applicant for, a licence; and
 - (b) the person's criminal history changes.
- (2) The commissioner may give the chief executive a written notice about the change in the person's criminal history.
- (3) The notice must—
 - (a) state the following details—
 - (i) the person's name and any other name the commissioner believes the person may use or may have used;
 - (ii) the person's address;
 - (iii) the person's date and place of birth;
 - (iv) a brief description of the nature of the offence giving rise to the conviction or charge to which the change relates; and
 - (b) if the change includes the person becoming subject to a control order or a registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.
- (4) The chief executive may confirm the suspicion of the commissioner mentioned in subsection (1)(a).
- (5) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.
- (6) In this section—
offence includes alleged offence.

16 Chief executive may require further information	1 2
(1) The chief executive may, by written notice given to an applicant for a licence, or the renewal of a licence, require the applicant to do 1 or more of the following things—	3 4 5 6
(a) give, in a stated way, stated information the chief executive considers relevant to the investigation of the application;	7 8 9
(b) produce, in a stated way, stated records the chief executive considers relevant to the investigation of the application and permit the chief executive to examine, take extracts from and make copies of the records;	10 11 12 13 14
(c) authorise a person described in the notice to comply with a requirement mentioned in paragraph (a) or (b);	15 16 17
(d) give the chief executive the authorisation or consent the chief executive requires to enable the chief executive to obtain, from another person, information relevant to the investigation of the application.	18 19 20 21 22
(2) A person who complies with a requirement of a notice under this section does not incur a liability to another person merely because of the compliance.	23 24 25 26
(3) The applicant is taken to have withdrawn the applicant's application if, within a reasonable time stated in the notice, the applicant fails to comply with a requirement under this section in relation to the application.	27 28 29 30 31
(4) In this section— information includes financial and other confidential information.	32 33 34

[s 419]

16A Use of information obtained under s 15, 15B, 16 or 61	1 2
(1) This section applies to the chief executive in considering information about a person obtained under section 15, 15B, 16 or 61.	3 4 5
(2) Information about a conviction of the person may be used only for making a decision about whether the person is, or continues to be, a fit and proper person to hold a licence.	6 7 8 9
(3) Information about a charge made against the person for a prescribed offence may be used only for deciding whether to grant a licence to the person, or to suspend, or to refuse to renew, the person's licence.	10 11 12 13 14
(4) When making a decision mentioned in subsection (2), the chief executive must have regard to the following matters relating to information about the commission of the offence by the person—	15 16 17 18
(a) when the offence was committed;	19
(b) the nature of the offence and its relevance to the person carrying out a body art tattoo business, or body art tattoo procedures, under the licence;	20 21 22 23
(c) anything else the chief executive considers relevant to the decision.	24 25
(5) When making a decision mentioned in subsection (3), the chief executive must have regard to the following matters relating to information about the alleged or possible commission of the offence by the person—	26 27 28 29 30
(a) when the offence is alleged to have been committed or may possibly have been committed;	31 32 33
(b) the nature of the alleged or possible offence and its relevance to the person carrying out a	34 35

[s 420]

	body art tattoo business, or body art tattoo procedures, under the licence;	1 2
	(c) anything else the chief executive considers relevant to the decision.	3 4
Clause 420	Amendment of s 17 (Decision on application)	5
	(1) Section 17(1) to (4)—	6
	<i>omit, insert—</i>	7
	(1) The chief executive may, after considering an application for a licence and any other information obtained in relation to the application, decide to—	8 9 10 11
	(a) grant the licence; or	12
	(b) refuse to grant the licence.	13
	(2) If the applicant has been charged with a prescribed offence, the chief executive may defer making a decision to grant or refuse to grant the licence until the end of the proceeding for the charge.	14 15 16 17 18
	(2) Section 17(5) and (6)—	19
	<i>renumber</i> as section 17(3) and (4).	20
Clause 421	Amendment of s 18 (Term of licence)	21
	(1) Section 18(3)—	22
	<i>insert—</i>	23
	<i>Note—</i>	24
	See also the <i>Penalties and Sentences Act 1992</i> , section 161U.	25 26
	(2) Section 18(5)—	27
	<i>omit.</i>	28

[s 422]

Clause 422	Omission of pt 3, div 3 (Role of commissioner)	1
	Part 3, division 3—	2
	<i>omit.</i>	3
Clause 423	Amendment of s 25 (Change of licence particulars)	4
	Section 25(2), definition <i>licensee's particulars</i> , '12(1)(b)'—	5
	<i>omit, insert—</i>	6
	11A	7
Clause 424	Amendment of s 27 (Changes in staff members)	8
	Section 27(3)—	9
	<i>insert—</i>	10
	(c) any other particulars prescribed by regulation.	11
		12
Clause 425	Amendment of s 33 (Suspension of licence)	13
	(1) Section 33(1)(a), ' , subject to section 22,'—	14
	<i>omit.</i>	15
	(2) Section 33(1)—	16
	<i>insert—</i>	17
	<i>Note—</i>	18
	See also the <i>Penalties and Sentences Act 1992</i> , section 161U.	19
		20
Clause 426	Amendment of s 34 (Cancellation of licence)	21
	(1) Section 34(1) to (3)—	22
	<i>omit, insert—</i>	23
	(1) The chief executive may cancel a licence—	24

[s 427]

-
- (a) if the chief executive is satisfied the licensee—
 - (i) is no longer a fit and proper person to hold the licence; or
 - (ii) supplied information that was, to the licensee's knowledge, false or misleading in a material particular in, or in connection with, the application for, or renewal of, the licence; or
 - (iii) contravened this Act, whether or not the licensee has been convicted of an offence for the contravention; or
 - (iv) contravened a condition of the licence; or
 - (b) in other circumstances prescribed by regulation.
- (2) For deciding whether a person is not, or is no longer, a fit and proper person to hold the licence, the chief executive may have regard to the matters mentioned in sections 12 to 14 to which the chief executive may have regard in deciding whether an applicant for a licence is a fit and proper person to hold a licence.
 - (3) The chief executive may not have regard to criminal intelligence in deciding whether a person is not, or is no longer, a fit and proper person to hold the licence.
- (2) Section 34(5), ' , subject to section 22,'—
omit.

Clause 427 Insertion of new s 34A

Part 3, division 6—

insert—

[s 428]

34A Automatic cancellation on conviction

- (1) A person's licence is cancelled if the person is convicted of a prescribed offence for which a conviction is recorded.
 - (2) The person must return the licence to the chief executive within 14 days after its cancellation.
- Maximum penalty for subsection (2)—20 penalty units.

Clause 428 Insertion of new pt 3, div 6A and div 6B, hdg

After section 35—

insert—

Division 6A Renewal of licences

35A Renewal of licence

- (1) A licensee may apply to the chief executive for the renewal of the licensee's licence before the licence ends.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by—
 - (i) the fee prescribed by regulation; and
 - (ii) if, before or when the application is made, the chief executive requires the payment of costs under section 15A(1)—the amount of costs required to be paid.
- (3) An application for renewal of a licence may be considered by the chief executive only if—
 - (a) the commissioner holds the applicant's fingerprints and palm prints taken under section 35E; or

-
- (b) the applicant consents to having the
applicant's fingerprints and palm prints
taken by the commissioner under section
35E.
- (4) If a regulation prescribes a fee for taking an
applicant's fingerprints under section 35E, the
application must be accompanied by the fee.
- (5) However, subsection (4) does not apply if the
commissioner already holds the relevant person's
fingerprints taken under section 35E.
- (6) If an applicant's fingerprints are not taken under
section 35E for the application, the chief
executive must refund to the applicant any fee
paid under subsection (4).
- (7) If the chief executive receives an application for
the renewal of a licence, the chief executive must
renew the licence unless the chief executive
considers reasonable grounds exist to refuse to
renew the licence under section 35C.
- (8) However, if the applicant has been charged with a
relevant offence, the chief executive may defer
making a decision about renewing the licence
until the proceeding for the charge ends.
- (9) If an application is made under subsection (1) for
the renewal of a licence and the chief executive
has not, before the licence ends, decided whether
to renew the licence, the licence is taken to
continue in force until the day—
- (a) the chief executive decides the application;
or
- (b) the licensee withdraws the application.
- (10) In this section—
relevant offence means—
- (a) a prescribed offence; or

[s 428]

- (b) an offence a conviction for which would result in the person convicted being disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister.

35B Term of renewed licence

- (1) A licence granted under this division (a *renewed licence*) begins at the end of the day on which, apart from its renewal, the licence being renewed would have ended.
- (2) A renewed licence is granted for the term, of 1 year or 3 years, stated in the renewed licence.

35C Grounds for refusal to renew

- (1) Each of the following is a ground to refuse to renew a licence—
 - (a) the applicant—
 - (i) is not a fit and proper person to hold the licence; or
 - (ii) has supplied information that was, to the licensee's knowledge, false or misleading in a material particular in, or in connection with, the application for renewal of the licence; or
 - (iii) has contravened a provision of this Act, whether or not the licensee has been convicted of an offence for the contravention; or
 - (iv) has contravened a condition of the licence to which the application for renewal relates;
 - (b) it would be contrary to the public interest for the licence to be granted;

-
- (c) another ground prescribed by regulation. 1
- (2) Without limiting subsection (1), it is a ground to 2
refuse to renew an operator licence that a closure 3
order made under section 47 is, or has been, in 4
force in relation to the licensed premises. 5
- (3) For deciding whether a person continues to be a fit 6
and proper person to hold the licence, the chief 7
executive may have regard to the matters 8
mentioned in sections 12 to 14 to which the chief 9
executive may have regard in deciding whether an 10
applicant for a licence is a fit and proper person to 11
hold a licence. 12
- (4) A person is not, or is no longer, a fit and proper 13
person to hold a licence if the person is subject to 14
a relevant control order. 15
- (5) The chief executive may not have regard to 16
criminal intelligence in deciding whether— 17
- (a) a person is not, or is no longer, a fit and 18
proper person to hold a licence; or 19
- (b) it would be contrary to the public interest for 20
the licence to be granted. 21

35D Procedure for refusal to renew 22

- (1) If the chief executive considers reasonable 23
grounds exist to refuse to renew a licence, the 24
chief executive must give the applicant a written 25
notice that— 26
- (a) states the chief executive proposes not to 27
renew the licence; and 28
- (b) states the grounds for proposing not to 29
renew the licence; and 30
- (c) invites the person to show within a stated 31
period, not less than 28 business days after 32

[s 429]

	the notice is given to the person, why the application should not be refused.	1 2
(2)	If, after considering all representations made within the stated period, the chief executive still believes that grounds not to renew the licence exist, the chief executive may decide to refuse to renew the licence.	3 4 5 6 7
(3)	If the chief executive decides to refuse to renew the licence, the chief executive must give the applicant a QCAT information notice for the decision.	8 9 10 11
(4)	The decision takes effect on the later of the following—	12 13
(a)	the day on which the notice is given to the licensee;	14 15
(b)	the day stated in the notice.	16
Division 6B	Fingerprint and palm print procedures	17 18
Clause 429	Amendment of s 38 (Way in which records for licensed premises to be kept)	19 20
	Section 38(1)(b)—	21
	<i>omit, insert—</i>	22
	(b) is at all times kept—	23
	(i) for a licensed premises that is a fixed premises—at the licensed premises; or	24 25
	(ii) for a licensed premises that is a mobile premises—at the fixed premises mentioned in section 11A(1)(b)(ii).	26 27 28

Clause 430	Amendment of s 40 (Authority conferred by permit)	1
	Section 40(a), ‘premises’—	2
	<i>omit, insert—</i>	3
	place	4
Clause 431	Amendment of s 41 (Application for exhibition permit)	5
	Section 41(5)(g), ‘premises’—	6
	<i>omit, insert—</i>	7
	place	8
Clause 432	Amendment of s 42 (Decision about application for exhibition permit)	9
	(1) Section 42(2)(a)—	10
	<i>omit, insert—</i>	11
	(a) whether the applicant has ever applied for a licence and, if so, any decision in relation to the application;	12
	(2) Section 42—	13
	<i>insert—</i>	14
	(3A) The chief executive may also decide not to grant the permit if—	15
	(a) the grant of the permit would result in more than 2 exhibition permits being granted to the same individual, or an individual applying on behalf of the same corporation, partnership or trust, in the same calendar year; and	16
	(b) the chief executive reasonably believes the individual is seeking to avoid applying for or holding a licence.	17
	(3) Section 42(10)—	18
		19
		20
		21
		22
		23
		24
		25
		26
		27
		28
		29

[s 433]

omit.

1

Clause 433 Amendment of s 44 (Application for visiting tattooist permit)

2

3

(1) Section 44(4)(e)—

4

insert—

5

(ia) if a visa has not been issued to the applicant
to enter Australia—evidence that the
applicant has applied for a visa at least 7
days before the proposed commencement
date for the permit;

6

7

8

9

10

(2) Section 44(4)(e)(ia) to (iv)—

11

renumber as section 44(4)(e)(iii) to (v).

12

Clause 434 Amendment of s 45 (Decision about application for visiting tattooist permit)

13

14

(1) Section 45—

15

insert—

16

(3A) The chief executive may also refuse to grant the
permit if—

17

18

(a) the grant of the permit would result in more
than 2 visiting tattooist permits being
granted to the same individual in the same
calendar year; and

19

20

21

22

(b) the chief executive reasonably believes the
individual is seeking to avoid applying for
or holding a licence.

23

24

25

(2) Section 45(11)—

26

omit.

27

(3) Section 45(3A) to (10)—

28

renumber as section 45(4) to (11).

29

Clause 435	Amendment of s 46 (Interim closure of unlicensed or illegal tattoo parlours)	1 2
(1)	Section 46, heading, ‘tattoo parlours’—	3
	<i>omit, insert—</i>	4
	body art tattooing businesses	5
(2)	Section 46(2)(b)—	6
	<i>omit, insert—</i>	7
	(b) posted in a conspicuous place—	8
	(i) for a licensed premises that is a fixed premises—at the entrance to the licensed premises; or	9 10 11
	(ii) for a licensed premises that is a mobile premises—	12 13
	(A) on the mobile premises; or	14
	(B) at the entrance to the fixed premises mentioned in section 11A(1)(b)(ii).	15 16 17
Clause 436	Amendment of s 47 (Long-term closure of tattoo parlours)	18 19
	Section 47, heading, ‘tattoo parlours’—	20
	<i>omit, insert—</i>	21
	body art tattooing businesses	22
Clause 437	Omission of ss 57 and 58	23
	Sections 57 and 58—	24
	<i>omit.</i>	25
Clause 438	Amendment of s 59 (False or misleading statements)	26
	Section 59(2), definition <i>official</i> —	27

[s 439]

insert—

(c) the commissioner.

Clause 439 Amendment of s 60 (False or misleading documents)

Section 60(3), definition *official—*

insert—

(c) the commissioner.

Clause 440 Replacement of ss 61 and 62

Sections 61 and 62—

omit, insert—

61 Exchange of information

(1) The chief executive may enter into an arrangement (an ***information-sharing arrangement***) with a relevant agency for the purpose of sharing or exchanging information—

(a) held by the chief executive or the relevant agency; or

(b) to which the chief executive or the relevant agency has access.

(2) An information-sharing arrangement may relate only to information that assists—

(a) the chief executive perform the chief executive's functions under this Act; or

(b) the relevant agency perform its functions.

(3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—

(a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and

-
- (b) disclose information to the other party. 1
- (4) The chief executive may use criminal intelligence 2
given to the chief executive by the commissioner 3
under an information-sharing arrangement only 4
for monitoring compliance with this Act. 5
- (5) In this section— 6
relevant agency means the following— 7
- (a) the commissioner; 8
- (b) the chief executive of a department; 9
- (c) a local government; 10
- (d) a person prescribed by regulation. 11
- 62 Confidentiality** 12
- (1) This section applies if a person gains confidential 13
information through involvement in the 14
administration of this Act. 15
- (2) The person must not make a record of the 16
information or disclose the information to another 17
person, other than under subsection (4). 18
Maximum penalty—35 penalty units. 19
- (3) Without limiting subsection (1), a person gains 20
confidential information through involvement in 21
the administration of this Act if the person gains 22
the information because of being, or an 23
opportunity given by being— 24
- (a) the chief executive; or 25
- (b) a public service employee employed in the 26
department; or 27
- (c) a person engaged by the chief executive for 28
this Act. 29
- (4) A person may make a record of confidential 30
information or disclose it to another person— 31

[s 440]

- (a) for this Act; or 1
 - (b) to discharge a function under another law; 2
or 3
 - (c) for a proceeding in a court or QCAT; or 4
 - (d) if authorised by a court or QCAT in the 5
interests of justice; or 6
 - (e) if required or permitted by law; or 7
 - (f) for information other than criminal 8
intelligence—if the person is authorised in 9
writing by the person to whom the 10
information relates. 11
- (5) The chief executive must destroy the following as 12
soon as practicable after it is no longer needed for 13
the purpose for which it was requested or given— 14
 - (a) a report about the criminal history of a 15
person given under section 15(3); 16
 - (b) a copy of a control order accompanying a 17
report about the criminal history of a person 18
given under section 15(3); 19
 - (c) a notice given under section 15B(2); 20
 - (d) information about a person obtained under 21
section 61. 22
- (6) Subsection (5) applies despite the *Public Records* 23
Act 2002. 24
- (7) In this section— 25
 - confidential information***— 26
 - (a) includes information about a person’s 27
affairs; but 28
 - (b) does not include statistical or other 29
information that could not reasonably be 30
expected to result in the identification of the 31
person to whom the information relates. 32

Clause 441	Amendment of s 63 (Protection from liability)	1
	(1) Section 63(3), definition <i>official</i> —	2
	<i>insert</i> —	3
	(aa) the commissioner; or	4
	(2) Section 63(3), definition <i>official</i> , paragraphs (aa) to (d)—	5
	<i>renumber</i> as section 63(3), definition <i>official</i> , paragraphs (b) to (e).	6
		7
Clause 442	Amendment of s 70 (Regulation-making power)	8
	Section 70(2)—	9
	<i>omit, insert</i> —	10
	(2) Without limiting subsection (1), a regulation may be made about the following—	11
		12
	(a) setting fees payable under this Act, including the waiver, reduction, postponement or refund of fees payable or paid;	13
		14
		15
		16
	(b) the making, keeping and inspection of records in connection with the carrying on of a body art tattooing business.	17
		18
		19
Clause 443	Omission of s 71 (Act to be reviewed)	20
	Section 71—	21
	<i>omit.</i>	22
Clause 444	Replacement of pt 8, hdg (Transitional provision)	23
	Part 8, heading—	24
	<i>omit, insert</i> —	25
	Part 8	
	Transitional provisions	26

[s 445]

	Division 1	Transitional provision for Tattoo Parlours Act 2013	1 2
Clause 445	Insertion of new pt 8, div 2		3
	Part 8—		4
	<i>insert—</i>		5
	Division 2	Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016	6 7 8 9
	73 Applications not finally decided		10
	(1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant of a licence or permit.		11 12 13 14
	(2) The application is taken to have been withdrawn.		15
	74 Show cause process not finally decided		16
	(1) This section applies if—		17
	(a) the chief executive had given a QCAT notice mentioned in section 33(1) or 34(5) (the <i>show cause notice</i>) to a person; and		18 19 20
	(b) immediately before the commencement, the chief executive had not finally dealt with the matters relating to the show cause notice (the <i>show cause process</i>).		21 22 23 24
	(2) The show cause process must continue under this Act as in force after the commencement.		25 26

- 75 Proceedings not finally decided** 1
- (1) This section applies if immediately before the 2
commencement the following proceedings had 3
been started but not finally dealt with— 4
- (a) a proceeding before QCAT for a review of a 5
decision mentioned in repealed section 6
57(1); 7
- (b) a proceeding about a decision mentioned in 8
repealed section 57(1) in the Supreme 9
Court. 10
- (2) The proceeding is discontinued. 11
- (3) QCAT or the Supreme Court must return to the 12
commissioner any criminal intelligence report or 13
other criminal information mentioned in repealed 14
section 20(3) relating to the proceeding in 15
QCAT's or the Supreme Court's possession or 16
control. 17
- (4) For subsection (1), a proceeding had not been 18
finally dealt with if— 19
- (a) QCAT or the Supreme Court had not made a 20
decision; or 21
- (b) QCAT or the Supreme Court had made a 22
decision but the appeal period for the 23
decision had not ended; or 24
- (c) QCAT or the Supreme Court had made a 25
decision and an appeal against the decision 26
had been started but not ended. 27
- (5) In this section— 28
- repealed*, in relation to a provision of this Act, 29
means the provision as in force immediately 30
before the commencement. 31

- 76 Additional prescribed offences** 32
- Until the expiry of the Criminal Code, sections 33

[s 445]

60A and 60B, the definition *prescribed offence* 1
for this Act is taken to include a reference to those 2
sections. 3

77 Transitional regulation-making power 4

- (1) A regulation (a *transitional regulation*) may 5
make provision of a saving or transitional nature 6
for which— 7
 - (a) it is necessary to make provision to allow or 8
facilitate the doing of anything to achieve 9
the transition from the operation of the 10
pre-amended Act to the operation of the 11
amended Act; and 12
 - (b) this Act does not make provision or 13
sufficient provision. 14
- (2) Without limiting subsection (1), a transitional 15
regulation may continue the operation of a 16
provision of the pre-amended Act that was 17
omitted by the amending Act. 18
- (3) A transitional regulation may have retrospective 19
operation to a day that is not earlier than the day 20
of the commencement. 21
- (4) A transitional regulation must declare it is a 22
transitional regulation. 23
- (5) This section and any transitional regulation expire 24
2 years after the day of commencement. 25
- (6) In this section— 26

amended Act means this Act as in force after the 27
commencement. 28

amending Act means the *Serious and Organised* 29
Crime Legislation Amendment Act 2016. 30

pre-amended Act means this Act as it was in force 31
immediately before the commencement. 32

Clause 446	Amendment of sch 1 (Dictionary)	1
(1)	Schedule 1, authorising provision, ‘3’—	2
	<i>omit, insert—</i>	3
	4	4
(2)	Schedule 1, definitions <i>adverse security determination</i> and <i>close associate</i> —	5
	<i>omit.</i>	6
(3)	Schedule 1—	7
	<i>insert—</i>	8
	<i>charge</i> , for an offence, means a charge in any form, including, for example, the following—	9
	(a) a charge on an arrest;	10
	(b) a notice to appear served under the <i>Police Powers and Responsibilities Act 2000</i> , section 382;	11
	(c) a complaint under the <i>Justices Act 1886</i> ;	12
	(d) a charge by a court under the <i>Justices Act 1886</i> , section 42(1A) or another provision of an Act;	13
	(e) an indictment.	14
	<i>control order</i> see the <i>Penalties and Sentences Act 1992</i> , section 161N.	15
	<i>convicted</i> , of a prescribed offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.	16
	<i>criminal history</i> , of a person, means—	17
	(a) despite the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , section 6, every conviction of the person for an offence, in Queensland or elsewhere, whether before or after the commencement; and	18
		19
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[s 446]

- (b) every charge made against the person for an offence, in Queensland or elsewhere, whether before or after the commencement.
- criminal intelligence* see the Criminal Code, section 86(3).
- fixed premises* means premises that is a building or other structure, or part of a building or other structure, that has a permanent address.
- mobile premises*, in relation to a body art tattooing business, means premises that is a vehicle, building or other structure ordinarily moved from place to place.
- premises* means—
 - (a) a building or other structure, or part of a building or other structure, that has a permanent address; or
 - (b) a vehicle, building or other structure ordinarily moved from place to place.
- prescribed offence* means—
 - (a) an offence against the Criminal Code, section 76; or
 - (b) an offence mentioned in the Criminal Code, part 2, chapter 9A; or
 - (c) an offence that is—
 - (i) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and
 - (ii) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q.
- registered corresponding control order* see the *Penalties and Sentences Act 1992*, section 161N.

[s 447]

- relevant control order* means a control order or
registered corresponding control order that
restricts the person from carrying on a business,
engaging in an occupation or performing an
activity requiring a licence.
- relevant person*, for an applicant or licensee,
means—
- (a) if the business to which the application or
licence relates is owned or operated by or on
behalf of a corporation—a director of the
corporation or a member of its governing
body; or
 - (b) if the business to which the application or
licence relates is owned or operated by or on
behalf of a partnership—a partner, including
a silent partner, of the partnership; or
 - (c) if the business to which the application or
licence relates is owned or operated by or on
behalf of a trust—a trustee of the trust.

Clause 447 Renumbering of ss 12A and 12B

Sections 12A and 12B, as inserted by this Act—
renumber as sections 13 and 14.

Clause 448 Renumbering of pt 3, divs 4–8

Part 3, divisions 4 to 8—
renumber as part 3, divisions 3 to 9.

[s 449]

Part 31	Amendment of Tow Truck Act 1973	1
		2
Clause 449	Act amended	3
	This part amends the <i>Tow Truck Act 1973</i> .	4
Clause 450	Amendment of s 4C (Who is an appropriate person)	5
	(1) Section 4C(1AA)—	6
	<i>omit.</i>	7
	(2) Section 4C(1)—	8
	<i>insert—</i>	9
	(k) whether the person is, or has been, the subject of a control order or registered corresponding control order.	10
		11
		12
	(3) Section 4C—	13
	<i>insert—</i>	14
	(1A) The chief executive may not take into account criminal intelligence given by the police commissioner to the chief executive under section 36B when deciding whether a person is an appropriate person to hold or continue to hold a licence or certificate under this Act.	15
		16
		17
		18
		19
		20
	(4) Section 4C(1A) and (2)—	21
	<i>renumber</i> as section 4C(2) and (3).	22
Clause 451	Omission of pt 4, div 2, sdiv 1 and sdiv 2, hdg	23
	Part 4, division 2, subdivision 1 and subdivision 2, heading—	24
	<i>omit.</i>	25

Clause 452	Amendment of s 21A (Cancellation or suspension of authorities)	1
		2
	(1) Section 21A(ca)—	3
	<i>omit.</i>	4
	(2) Section 21A—	5
	<i>insert—</i>	6
	(2) The chief executive may not cancel or suspend an authority holder's authority on the basis of criminal intelligence given by the police commissioner to the chief executive under section 36B.	7
		8
		9
		10
		11
Clause 453	Amendment of s 21B (Immediate suspension of authority)	12
		13
	(1) Section 21B(1), 'any of'—	14
	<i>omit.</i>	15
	(2) Section 21B(1)(c)—	16
	<i>omit.</i>	17
	(3) Section 21B(4)(c), from ' , unless ' to 'organisation'—	18
	<i>omit.</i>	19
	(4) Section 21B(4), note—	20
	<i>omit.</i>	21
Clause 454	Amendment of s 21D (Amending, suspending or cancelling authority)	22
		23
	(1) Section 21D(7)(b), from ' , unless ' to 'organisation'—	24
	<i>omit.</i>	25
	(2) Section 21D(7), note—	26
	<i>omit.</i>	27

[s 455]

Clause 455	Omission of pt 4, div 2, sdiv 3, hdg (Delivery of cancelled or suspended authorities)	1 2
	Part 4, division 2, subdivision 3, heading—	3
	<i>omit.</i>	4
Clause 456	Amendment of s 21G (Delivery of cancelled or suspended authority)	5 6
	Section 21G, from ‘QCAT’ to ‘or the’—	7
	<i>omit.</i>	8
Clause 457	Omission of pt 6, div 1, hdg and s 27A	9
	Part 6, division 1, heading and section 27A—	10
	<i>omit.</i>	11
Clause 458	Amendment of s 28 (Internal review of decisions)	12
	Section 28(1), from ‘, except’ to ‘the decision’—	13
	<i>omit.</i>	14
Clause 459	Amendment of s 29 (Review of decisions by QCAT)	15
	(1) Section 29(1), from ‘for—’	16
	<i>omit, insert—</i>	17
	for a decision on a review under section 28 of a decision mentioned in schedule 1.	18 19
	(2) Section 29(3)—	20
	<i>omit.</i>	21
Clause 460	Omission of pt 6, div 2 (Confidentiality and application of Judicial Review Act 1991)	22 23
	Part 6, division 2—	24

omit.

1

Clause 461 Amendment of s 36 (Chief executive may obtain information from police commissioner—criminal history)

2

3

(1) Section 36(1), after ‘history’—

4

insert—

5

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

6

7

8

(2) Section 36—

9

insert—

10

(5) A report under subsection (3) must, if the person
is, or has been, the subject of a control order or
registered corresponding control order—

11

12

13

(a) state the details of the order; or

14

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

15

Clause 462 Amendment of s 36A (Notice of change in police information about a person—criminal history)

16

17

Section 36A—

18

insert—

19

(4) A notice under subsection (3) must also, if the
person is, or has been, the subject of a control
order or registered corresponding control order—

20

21

22

(a) state the details of the order; or

23

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

24

Clause 463 Omission of s 36AA (Requesting and using police commissioner’s advice—identified participants and criminal organisations)

25

26

27

Section 36AA—

28

[s 464]

omit.

1

Clause 464 Replacement of s 36B (Chief executive may enter into arrangement about giving and receiving information with police commissioner)

2
3
4

Section 36B—

5

omit, insert—

6

36B Exchange of information

7

- (1) The chief executive may enter into an arrangement (an *information-sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging information—
- (a) held by the chief executive or the relevant agency; or
- (b) to which the chief executive or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
- (a) the chief executive perform the chief executive's functions under this Act; or
- (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—
- (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
- (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence given to the chief executive by the police commissioner under an information-sharing arrangement only for monitoring compliance with this Act.

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	(5) In this section—	1
	<i>relevant agency</i> means the following—	2
	(a) the police commissioner;	3
	(b) the chief executive of a department;	4
	(c) a local government;	5
	(d) a person prescribed by regulation.	6
Clause 465	Amendment of s 36C (Confidentiality)	7
	(1) Section 36C—	8
	<i>insert—</i>	9
	(2A) Subsection (2)(b)(ii) does not apply if the information is criminal intelligence.	10 11
	(2) Section 36C(2A) and (3)—	12
	<i>renumber</i> as section 36C(3) and (4).	13
Clause 466	Insertion of new pt 8, div 4	14
	After section 46—	15
	<i>insert—</i>	16
	Division 4	17
	Transitional provisions for	18
	Serious and Organised	19
	Crime Legislation	20
	Amendment Act 2016	21
	47 Definition for division	21
	In this division—	22
	<i>authority</i> means—	23
	(a) an assistant’s certificate; or	24
	(b) a driver’s certificate; or	25

[s 466]

- (c) a licence. 1
- 48 Applications not finally decided** 2
- (1) This section applies if, immediately before the 3
commencement, the chief executive had not 4
finally decided an application for the grant or 5
renewal of an authority. 6
- (2) The chief executive must decide the application 7
under this Act as in force after the 8
commencement. 9
- 49 Show cause process not finally decided** 10
- (1) This section applies if— 11
- (a) the chief executive had given a written 12
notice to an authority holder under section 13
21C(2) or 21D(3); and 14
- (b) immediately before the commencement, the 15
chief executive had not finally dealt with 16
matters relating to the written notice under 17
section 21D(6) (the *show cause process*). 18
- (2) The show cause process must continue under this 19
Act as in force after the commencement. 20
- 50 Proceedings not finally decided** 21
- (1) This section applies if, immediately before the 22
commencement, the following proceedings had 23
been started but not finally dealt with— 24
- (a) a proceeding before QCAT for a review of a 25
relevant decision; 26
- (b) a proceeding before the Supreme Court 27
about a relevant decision. 28
- (2) The proceeding is discontinued and the matter is 29
remitted to the chief executive for the chief 30

- executive to decide again under this Act as in
force after the commencement. 1
2
- (3) QCAT or the Supreme Court must return to the 3
police commissioner any criminal intelligence 4
relating to the proceeding in QCAT’s or the 5
Supreme Court’s possession or control. 6
- (4) For subsection (1), a proceeding had not been 7
finally dealt with if— 8
- (a) QCAT or the Supreme Court had not made a 9
decision; or 10
- (b) QCAT or the Supreme Court had made a 11
decision but the appeal period for the 12
decision had not ended; or 13
- (c) QCAT or the Supreme Court had made a 14
decision and an appeal against the decision 15
had started but not ended. 16
- (5) In this section— 17
- criminal intelligence*** means criminal intelligence 18
within the meaning of repealed section 30(7). 19
- relevant decision*** means a decision for which an 20
information notice was given under repealed 21
section 21AA or repealed section 27A. 22
- repealed***, in relation to a provision of this Act, 23
means the provision as in force immediately 24
before the commencement. 25

Clause 467	Amendment of sch 1 (Reviewable decisions)	26
	Schedule 1, authorising provision, ‘27A, 28, 29 and 30’—	27
	<i>omit, insert—</i>	28
	28 and 29	29

[s 468]

Clause 468	Amendment of sch 2 (Dictionary)	1
(1)	Schedule 2, definitions <i>criminal organisation</i> and <i>identified participant</i> —	2
	<i>omit.</i>	3
		4
(2)	Schedule 2—	5
	<i>insert</i> —	6
	<i>control order</i> see the <i>Penalties and Sentences Act 1992</i> , section 161N.	7
		8
	<i>criminal intelligence</i> see the Criminal Code, section 86(3).	9
		10
	<i>registered corresponding control order</i> see the <i>Penalties and Sentences Act 1992</i> , section 161N.	11
		12
Part 32	Amendment of Transport Operations (Passenger Transport) Act 1994	13
		14
		15
Clause 469	Act amended	16
	This part amends the <i>Transport Operations (Passenger Transport) Act 1994</i> .	17
		18
Clause 470	Amendment of sch 1A (Driver disqualification offences)	19
	Schedule 1A, part 1, division 1—	20
	<i>insert</i> —	21
	10E section 228DA (Administering child exploitation material website)	
	10F section 228DB (Encouraging use of child exploitation material website)	

10G section 228DC (Distributing information about
avoiding detection)

Part 33	Amendment of Weapons Act 1990	1
		2
Clause 471	Act amended	3
	This part amends the <i>Weapons Act 1990</i> .	4
Clause 472	Amendment of s 10 (Limitations on issue of licence)	5
	Section 10(3)(a)(iii) and (iv) and (b)(iii) and (iv)—	6
	<i>omit.</i>	7
Clause 473	Amendment of s 10B (Fit and proper person—licensees)	8
	Section 10B(2A)—	9
	<i>omit.</i>	10
Clause 474	Amendment of s 10C (Fit and proper person—licensed dealer’s associate)	11
	Section 10C(2A)—	12
	<i>omit.</i>	13
		14
Clause 475	Amendment of s 14 (Inquiries into application)	15
	(1) Section 14(1A)—	16
	<i>omit.</i>	17
	(2) Section 14(3A)—	18
	<i>omit.</i>	19
	(3) Section 14(9), from ‘, other’ to ‘(3A),’—	20

[s 476]

omit.

1

(4) Section 14(9A)—

2

omit.

3

Clause 476 Amendment of s 18 (Renewal of licences)

4

Section 18(4A) to (4C)—

5

omit.

6

Clause 477 Amendment of s 19 (Notice of rejection of application to issue or renew licence)

7

8

Section 19(2), from ‘(other’ to ‘18(4B))’—

9

omit.

10

Clause 478 Amendment of s 30 (Suspension or revocation notice)

11

(1) Section 30(1A), ‘(other than advice given by the commissioner to an authorised officer under section 18(4B) or subsection (1C))’—

12

13

14

omit.

15

(2) Section 30(1B) to (1D)—

16

omit.

17

Clause 479 Amendment of s 50B (Unlawful supply of weapons)

18

Section 50B—

19

insert—

20

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

21

22

23

(4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*,

24

25

26

	section 161Q may not be presented without the consent of a Crown Law Officer.	1 2
Clause 480	Amendment of s 65 (Unlawful trafficking in weapons)	3
	Section 65—	4
	<i>insert—</i>	5
	(3) The <i>Penalties and Sentences Act 1992</i> , section 161Q also states a circumstance of aggravation for an offence against this section.	6 7 8
	(4) An indictment charging an offence against this section with the circumstance of aggravation stated in the <i>Penalties and Sentences Act 1992</i> , section 161Q may not be presented without the consent of a Crown Law Officer.	9 10 11 12 13
Clause 481	Amendment of s 142AA (Notices must be QCAT information notices)	14 15
	Section 142AA(3)—	16
	<i>omit.</i>	17
Clause 482	Amendment of s 142A (Confidentiality of criminal intelligence)	18 19
	(1) Section 142A(2)—	20
	<i>insert—</i>	21
	(c) may, as it considers appropriate to protect the confidentiality of criminal intelligence, take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.	22 23 24 25 26
	(2) Section 142A—	27
	<i>insert—</i>	28
	(2A) If the court or tribunal considers information	29

[s 483]

	categorised as criminal intelligence by the	1
	commissioner has been incorrectly categorised as	2
	criminal intelligence, the commissioner may	3
	withdraw the information from consideration by	4
	the court or tribunal.	5
	(2B) Information that is withdrawn by the	6
	commissioner under subsection (2A) must not	7
	be—	8
	(a) disclosed to any person; or	9
	(b) taken into consideration by the court or	10
	tribunal.	11
	(2C) The <i>Public Records Act 2002</i> does not apply to	12
	activities of, or records made or kept by, the court	13
	or tribunal to the extent that Act would otherwise	14
	enable criminal intelligence to be disclosed.	15
Clause 483	Omission of ss 143 and 144	16
	Sections 143 and 144—	17
	<i>omit.</i>	18
Clause 484	Amendment of s 145 (Applicant may carry on business pending review)	19
	Section 145(2)—	20
	<i>omit.</i>	21
Clause 485	Amendment of s 161 (Proceedings for an offence)	22
	Section 161—	23
	<i>insert—</i>	24
	(3A) However, an offence against section 50B or 65	25
	may not be by way of summary proceedings	26
	under subsection (1) if the person is alleged to	27
	have committed the offence with the	28
		29

[s 486]

	circumstance of aggravation stated in the	1
	<i>Penalties and Sentences Act 1992</i> , section 161Q.	2
Clause 486	Omission of pt 8, div 5 (Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013)	3
	Part 8, division 5—	4
	<i>omit.</i>	5
		6
		7
Clause 487	Insertion of new pt 8, div 7	8
	Part 8—	9
	<i>insert—</i>	10
	Division 7	11
	Transitional provisions for	12
	Serious and Organised	13
	Crime Legislation	14
	Amendment Act 2016	15
	193 Applications not finally decided	16
	(1) This section applies if, immediately before the	17
	commencement, an authorised officer had not	18
	finally decided an application for the grant or	19
	renewal of an authority.	20
	(2) The authorised officer must decide the application	21
	under this Act as in force after the	22
	commencement.	23
	(3) In this section—	24
	authority means—	25
	(a) a licence; or	26
	(b) a permit to acquire; or	27
	(c) a shooting club permit; or	28

[s 487]

- | | |
|---------------------------------------------------------------------------------------------------------------|-------------|
| (d) an approval to conduct an arms fair under section 79(2); or | 1
2 |
| (e) an approval of a range under section 101(1); or | 3
4 |
| (f) an approval of a shooting gallery under section 111; or | 5
6 |
| (g) any other type of approval, licence or permit granted or renewed by an authorised officer under this Act. | 7
8
9 |

194 Proceedings not finally decided 10

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with— | 11
12
13 |
| (a) a proceeding before QCAT for a review of a decision mentioned in repealed section 143(1); | 14
15
16 |
| (b) a proceeding before the Supreme Court about a decision mentioned in repealed section 143(1). | 17
18
19 |
| (2) The proceeding is discontinued and the matter is remitted to an authorised officer for the authorised officer to decide again under this Act as in force after the commencement. | 20
21
22
23 |
| (3) QCAT or the Supreme Court must return to the commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control. | 24
25
26
27 |
| (4) For subsection (1), a proceeding had not been finally dealt with if— | 28
29 |
| (a) QCAT or the Supreme Court had not made a decision; or | 30
31 |

	(b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or	1 2 3
	(c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.	4 5 6
	(5) In this section—	7
	<i>criminal intelligence</i> means criminal intelligence within the meaning of repealed 143(6).	8 9
	<i>repealed</i> , in relation to a provision of this Act, means the provision as in force immediately before the commencement.	10 11 12
Clause 488	Amendment of sch 2 (Dictionary)	13
	Schedule 2, definitions <i>criminal organisation</i> and <i>identified participant</i> —	14 15
	<i>omit</i> .	16
Part 34	Amendment of Working with Children (Risk Management and Screening) Act 2000	17 18 19
Clause 489	Act amended	20
	This part amends the <i>Working with Children (Risk Management and Screening) Act 2000</i> .	21 22
Clause 490	Amendment of sch 2 (Current serious offences)	23
	Schedule 2, item 4, table—	24
	<i>insert</i> —	25

[s 491]

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

Clause 491	Amendment of sch 4 (Current disqualifying offences)	1
	Schedule 4, item 4, table—	2
	<i>insert—</i>	3
228DA	Administering child exploitation material website	
228DB	Encouraging use of child exploitation material website	
228DC	Distributing information about avoiding detection	

Part 35	Repeals	4
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Clause 492	Repeal of Acts	5
	The following Acts are repealed—	6
	• Criminal Organisation Act 2009 No. 53	7
	• Vicious Lawless Association Disestablishment Act 2013 No. 47	8 9

Part 36	Minor and consequential amendments	1
		2

Clause 493	Legislation amended	3
	Schedule 1 amends the legislation it mentions.	4

Part 37	Other matters	5
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Clause 494	Making of Criminal Code (External Agencies) Regulation 2016	6
		7
(1)	Schedule 2 has effect to make the <i>Criminal Code (External Agencies) Regulation 2016</i> that is set out in schedule 2 as a regulation under the Criminal Code.	8
		9
		10
(2)	To remove any doubt, it is declared that the <i>Criminal Code (External Agencies) Regulation 2016</i> , on the commencement of schedule 2, stops being a provision of this Act and becomes a regulation made under the Criminal Code.	11
		12
		13
		14

Clause 495	Automatic repeal	15
	For the purposes of the <i>Acts Interpretation Act 1954</i> , section 22C, this Act is an amending Act.	16
		17

Schedule 1	Minor and consequential amendments	1 2
	section 493	3
Part 1	Amendments commencing on assent	4 5
	Criminal Code (Criminal Organisations) Regulation 2013	6 7
1	Section 2, ‘paragraph (c)’—	8
	<i>omit, insert—</i>	9
	paragraph (b)	10
	Drugs Misuse Act 1986	11
1	Part 7, divisions 5 and 8, headings, ‘Provisions’—	12
	<i>omit, insert—</i>	13
	Provision	14
2	Schedule, authorising provision, ‘schedule’—	15
	<i>omit, insert—</i>	16
	section	17

Judicial Review Act 1991	1
1 Schedule 1, part 2, ‘Criminal Organisation Act 2009’—	2
<i>omit.</i>	3
 Legal Profession Act 2007	 4
1 Section 9(1)(n), note—	5
<i>omit.</i>	6
 Liquor Act 1992	 7
1 Section 233(2)(a) and (b), after ‘commissioner’—	8
<i>insert—</i>	9
stating	10
2 Section 233(2)(d), after ‘analyst’—	11
<i>insert—</i>	12
stating	13
 Motor Dealers and Chattel Auctioneers Act 2014	 14
1 Section 77(3), ‘part 7, division 1, subdivision 2’—	15
<i>omit, insert—</i>	16
part 7, division 2	17

Schedule 1

2	Part 7, division 1, heading—	1
	<i>omit.</i>	2
3	Part 7, subdivisions 1 to 5—	3
	<i>renumber</i> as part 7, divisions 1 to 5.	4
4	Section 192, heading ‘div 1’—	5
	<i>omit, insert—</i>	6
	part	7
5	Section 192, ‘division’—	8
	<i>omit, insert—</i>	9
	part	10
	Penalties and Sentences Act 1992	11
1	Part 14, division 12, second occurring and division 13—	12
	<i>renumber</i> as part 14, divisions 13 and 14.	13
2	Section 239, second occurring and section 240—	14
	<i>renumber</i> as sections 240 and 241.	15
	Police Powers and Responsibilities Act 2000	16
1	Section 43(3), ‘if the person’—	17
	<i>omit, insert—</i>	18

	if	1
2	Section 43(3)(a), before ‘either’—	2
	<i>insert—</i>	3
	the person	4
3	Section 66(8), definition <i>owner</i>, ‘motor’—	5
	<i>omit.</i>	6
4	Section 103(3), ‘and keeping’—	7
	<i>omit, insert—</i>	8
	or keeping	9
5	Section 214(c), after ‘surveillance’—	10
	<i>insert—</i>	11
	device	12
6	Section 224(3)—	13
	<i>omit, insert—</i>	14
	(3) The authority must be written and state—	15
	(a) the controlled activity the police officer is authorised to engage in; and	16
	(b) the period, of not more than 7 days, for which the authority is in force.	17
7	Section 224(5)—	20
	<i>omit.</i>	21

Schedule 1

8	Section 224(6) and (7)—	1
	<i>renumber</i> as section 224(5) and (6).	2
9	Section 230(8)—	3
	<i>renumber</i> as section 230(7).	4
10	Section 253(2), note, after ‘executive’—	5
	<i>insert—</i>	6
	officer	7
11	Section 311(a), ‘liability’—	8
	<i>omit, insert—</i>	9
	responsibility	10
12	Section 322, definition <i>corresponding warrant</i>, after ‘surveillance’—	11
	<i>insert—</i>	12
	device warrant	13
		14
13	Section 331(3), note, after ‘surveillance’—	15
	<i>insert—</i>	16
	device	17
14	Section 334(2), after ‘surveillance’—	18
	<i>insert—</i>	19
	device	20
15	Section 488(5)(b), before ‘authorise’—	21
	<i>insert—</i>	22

	may	1
16	Section 614(1)(a), ‘surveillance powers’—	2
	<i>omit, insert—</i>	3
	powers	4
17	Section 800(1), ‘86(6)’—	5
	<i>omit, insert—</i>	6
	86(5)	7
18	Chapter 24, heading ‘, transitional provisions and amendments’—	8
	<i>omit, insert—</i>	9
	and transitional provisions	10
19	Chapter 24, part 1, heading, ‘and amended’—	11
	<i>omit.</i>	12
20	Chapter 24, part 5, division 6, heading—	13
	<i>omit.</i>	14
21	Schedule 1, entry for <i>Community Services (Torres Strait) Act 1984</i>—	15
	<i>omit.</i>	16
22	Schedule 2, authorising provision, ‘sections 229 and 323’—	17
	<i>omit, insert—</i>	18
	section 221, definition <i>controlled activity offence</i> ,	19
	section 229, definition <i>relevant offence</i> and	20
	section 323	21
		22
		23
		24

Schedule 1

23	Schedule 5, item 1, fourth dot point, ‘408D’—	1
	<i>omit, insert—</i>	2
	408E	3
24	Schedule 5, item 2, ‘schedule 2A’—	4
	<i>omit, insert—</i>	5
	schedule 1, part 2	6
25	Schedule 5, item 5, ‘408D’	7
	<i>omit, insert—</i>	8
	408E	9
26	Schedule 5, item 10, third dot point, after ‘penalty’—	10
	<i>insert—</i>	11
	for subsection (1)	12
27	Schedule 6, definition <i>chapter 13 application</i>, after ‘surveillance’—	13
	<i>insert—</i>	14
	device	15
28	Schedule 6, definition <i>mall</i>, paragraphs (b), (c) and (d)—	17
	<i>omit, insert—</i>	18
	(b) a mall continued in existence under the <i>City of Brisbane Act 2010</i> .	19
		20
29	Schedule 6, definition <i>surveillance powers</i>—	21
	<i>omit.</i>	22

Part 2	Amendments commencing 3 months after assent	1 2
	Justice and Other Information Disclosure Act 2008	3
1	Schedule, definitions <i>justice proceeding</i>, paragraph (b) and <i>person in the criminal justice system</i>, paragraph (i), after ‘<i>Peace and Good Behaviour Act 1982</i>’—	4 5 6
	<i>insert—</i>	7
	, part 2	8
	Peace and Good Behaviour Regulation 2010	9
1	Sections 2, definitions <i>complainant</i> and <i>defendant</i>, and 8(1), ‘section 4 of the Act’—	10 11
	<i>omit, insert—</i>	12
	section 5 of the Act	13
2	Sections 3(1), 4(1), 6, 7, 9(1) and 10, ‘section 4(2A) of the Act’—	14 15
	<i>omit, insert—</i>	16
	section 5(2A) of the Act	17
3	Sections 5(1) and 11, ‘section 4(3) of the Act’—	18
	<i>omit, insert—</i>	19
	section 5(3) of the Act	20

Police Powers and Responsibilities Act 2000

		1
1	Section 34, definition <i>body art tattooing business</i>, ‘<i>Tattoo Parlours Act 2013</i>’—	2
	<i>omit, insert—</i>	3
	<i>Tattoo Industry Act 2013</i>	4
		5
2	Sections 42(1)(c)(i) and 60(3)(h), ‘or 4A’—	6
	<i>omit.</i>	7
3	Section 809(2)(b), ‘, 4A’—	8
	<i>omit.</i>	9
4	Section 809(2)(d)—	10
	<i>omit.</i>	11
5	Schedule 6, definitions <i>criminal organisation offence</i>, <i>eligible person</i>, for chapter 4A, <i>immobilise</i>, for chapter 4A, <i>immobilising device</i>, for chapter 4A, <i>immobilising notice</i>, for chapter 4A, <i>impounding notice</i>, <i>information notice</i>, for chapter 4A, <i>number plate</i>, for chapter 4A, <i>number plate confiscation notice</i>, for chapter 4A, <i>usual possessor</i>, <i>vehicle production notice</i>, for chapter 4A and <i>vehicle release notice</i>, for chapter 4A—	12
		13
		14
		15
		16
		17
		18
		19
	<i>omit.</i>	20
6	Schedule 6, definition <i>owner</i>, ‘, 4A’—	21
	<i>omit.</i>	22

Queensland Civil and Administrative Tribunal Regulation 2009	1 2
1 Schedule 1, part 1, entry for <i>Tattoo Parlours Act 2013</i>—	3
<i>omit.</i>	4
2 Schedule 1, part 1—	5
<i>insert—</i>	6
<i>Tattoo Industry Act 2013</i> , section 56(1)	7
 Tattoo Parlours Regulation 2013	 8
1 Section 1, ‘<i>Tattoo Parlours Regulation 2013</i>’—	9
<i>omit, insert—</i>	10
<i>Tattoo Industry Regulation 2013</i>	11
 Weapons Regulation 2016	 12
1 Section 17(b)(ii), ‘or a similar Act’—	13
<i>omit, insert—</i>	14
part 2 or similar provisions of an Act	15

Schedule 2	Criminal Code (External Agencies) Regulation 2016	1
		2
	section 494	3
1	Short title	4
	This regulation may be cited as the <i>Criminal Code (External Agencies) Regulation 2016</i> .	5 6
2	External agencies	7
	For the Criminal Code, section 86(3), definition <i>external agency</i> , paragraph (f)(iii), each of the following entities is declared to be an external agency—	8 9 10
	(a) ASIC;	11
	(b) the Australian Crime Commission under the <i>Australian Crime Commission Act 2002</i> (Cwlth);	12 13
	(c) the Australian Border Force under the <i>Australian Border Force Act 2015</i> (Cwlth);	14 15
	(d) the Australian Security Intelligence Organisation established under the <i>Australian Security Intelligence Organisation Act 1979</i> (Cwlth);	16 17 18
	(e) the Corruption and Crime Commission established under the <i>Corruption, Crime and Misconduct Act 2003</i> (WA);	19 20 21
	(f) the Independent Commission against Corruption established under the <i>Independent Commission Against Corruption Act 1988</i> (NSW);	22 23 24
	(g) the New South Wales Crime Commission established under the <i>Crime Commission Act 2012</i> (NSW);	25 26
	(h) the Independent Broad-based Anti-corruption Commission established under the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> (Vic);	27 28 29 30

(i)	the Australian Commission for Law Enforcement	1
	Integrity established by the <i>Law Enforcement Integrity</i>	2
	<i>Commissioner Act 2006</i> (Cwlth).	3

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