

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.



Legislative Assembly Chamber,
Brisbane,

M. Harris
The Clerk of the Parliament.
19 February 20 *14*

In the name and on behalf of the Queen, I assent to this Bill.

Penelope Wenlock
Government House,
Brisbane, *19th February,* 20 *14*



Queensland

No. *1* of 2014
A BILL for

An Act to amend the Police Powers and Responsibilities Act 2000, the
Evidence Act 1977 and the Transport Operations (Road Use Management)
Act 1995 for particular purposes



Queensland

Police Powers and Responsibilities and Other Legislation Amendment Bill 2014

Contents

		Page
Part 1	Preliminary	
1	Short title	6
Part 2	Amendment of Police Powers and Responsibilities Act 2000	
3	Act amended	6
4	Insertion of new ch 2, pt 7	6
	Part 7 Out-of-control events	
	Division 1 Preliminary	
	Subdivision 1 Application of pt 7	
	53BA Additional powers	7
	Subdivision 2 Key definitions	
	53BB What is an out-of-control event.	7
	53BC What is out-of-control conduct	8
	53BD Other definitions for pt 7	9
	Division 2 Powers for out-of-control events	
	Subdivision 1 Authorisation for using powers	
	53BE Authorisation by senior police officer	11
	Subdivision 2 Using powers	
	53BF Use of powers only if authorised	12
	53BG Taking action for out-of-control event	12
	Division 3 Offences and costs orders	
	Subdivision 1 Offences	
	53BH Organising an out-of-control event	13
	53BI Causing an out-of-control event	14
	53BJ Offence to contravene direction	14
	Subdivision 2 Costs orders	
	53BK Costs order—adult	15

Contents

	53BL	Costs order—child	16
	53BM	Costs order—parent of child offender.	16
	53BN	Costs orders and other sentencing	17
5		Amendment of s 118 (Sale of motor vehicle if not recovered after impounding ends).	18
6		Amendment of s 118A (Sale of impounded motor vehicle if driver fails to appear)	18
7		Amendment of s 126 (Steps after seizing a vehicle, load or other thing)	19
8		Amendment of s 127 (Disposal of seized or moved vehicle, load or other thing).	19
9		Amendment of s 139 (Steps after seizing animal)	19
10		Amendment of s 140 (Recovery of seized animal).	19
11		Amendment of s 147 (Powers to provide relief to animal)	19
12		Replacement of s 195L (Destruction of registered digital photo)	20
	195L	Destruction of registered digital photo	20
13		Insertion of new ch 7, pt 7	22
	Part 7	Accessing account information	
	197A	Definitions for pt 7.	22
	197B	Giving notice to financial institution	23
	197C	Protection from suits etc. in relation to action taken.	24
	197D	Financial institution to comply with notice	25
14		Amendment of s 332 (What a surveillance device warrant authorises)	25
15		Amendment of s 382 (Notice to appear may be issued for offence)	26
16		Amendment of s 445 (Who are qualified persons).	26
17		Amendment of s 463 (When forensic procedure order ends).	26
18		Amendment of s 481 (Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.)	26
19		Amendment of s 482 (DNA sample notice)	27
20		Insertion of new s 488B	27
	488B	Commissioner may enter into DNA arrangement.	27
21		Amendment of s 489 (Power to analyse etc. DNA samples)	28
22		Amendment of ch 17, pt 7, hdg (Forensic procedures performed by doctors and dentists).	28
23		Amendment of s 501 (Application of pt 7)	28
24		Replacement of s 502 (When doctor or dentist may be asked to perform forensic procedure)	29

	502	When forensic examiner may be asked to perform forensic procedure	29
25		Amendment of s 503 (What person must be told before doctor or dentist performs a forensic procedure)	29
26		Insertion of new s 509A	30
	509A	Forensic nurse examiner's powers	30
27		Amendment of s 511 (Samples and results of analysis to be given to person)	30
28		Amendment of s 517 (Help with, and use of force for, performing forensic procedure)	31
29		Amendment of s 577 (Complaint about noise)	31
30		Amendment of s 578 (How to decide what is excessive noise—noise emitted from a place)	31
31		Amendment of s 579 (How to decide what is excessive noise—noise emitted by motorbike driven on a place that is not a road)	32
32		Amendment of s 580 (How to decide what is excessive noise—noise emitted in other particular circumstances)	32
33		Amendment of s 582 (Compliance with noise abatement direction)	32
34		Amendment of s 583 (Additional powers of police officers on later investigation)	32
35		Amendment of s 584 (Offence to interfere with locked etc. property)	33
36		Amendment of s 585 (Recovery of seized property)	33
37		Amendment of s 718 (Order for forfeiture of particular relevant things)	33
38		Amendment of s 719 (Order for forfeiture of relevant things connected with offences)	33
40		Amendment of s 783 (Sale of motor vehicle if not recovered after impounding ends)	34
41		Omission of s 805 (Availability of Act)	34
42		Amendment of sch 6 (Dictionary)	34
Part 3		Amendment of Evidence Act 1977	
43		Act amended	36
44		Amendment of s 95A (DNA evidentiary certificate)	36
45		Amendment of s 133A (DNA analysts)	37
Part 4		Amendment of Transport Operations (Road Use Management) Act 1995	
46		Act amended	38
47		Amendment of s 112 (Use of speed detection devices)	38
48		Amendment of s 120 (Evidentiary provisions)	38

2014

A Bill

for

An Act to amend the *Police Powers and Responsibilities Act 2000*, the *Evidence Act 1977* and the *Transport Operations (Road Use Management) Act 1995* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Police Powers and Responsibilities and Other Legislation Amendment Act 2014*.

Part 2 Amendment of Police Powers and Responsibilities Act 2000

3 Act amended

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

4 Insertion of new ch 2, pt 7

Chapter 2—

insert—

Part 7 Out-of-control events

Division 1 Preliminary

Subdivision 1 Application of pt 7

53BA Additional powers

The powers a police officer has under this part are additional to, and are not limited by, the powers a police officer otherwise has under this Act or another Act.

Subdivision 2 Key definitions

53BB What is an *out-of-control event*

- (1) An event becomes an *out-of-control event* if—
 - (a) 12 or more persons are gathered together at a place (an *event*); and
 - (b) 3 or more persons associated with the event engage in out-of-control conduct at or near the event; and
 - (c) the out-of-control conduct would cause a person at or near the event—
 - (i) to reasonably fear violence to a person or damage to property; or
 - (ii) to reasonably believe a person would suffer substantial interference with their rights and freedoms or peaceful passage through, or enjoyment of, a public place.
- (2) However, each of the following is not an out-of-control event—

[s 4]

- (a) a licensed event;
 - (b) a special event;
 - (c) an event that is primarily for the purposes of political advocacy, protest or industrial action;
 - (d) an authorised public assembly under the *Peaceful Assembly Act 1992*, section 7;
 - (e) any event held at a major sports facility under the *Major Sports Facilities Act 2001*, section 4;
 - (f) an event prescribed by regulation.
- (3) For applying subsection (1), it is immaterial whether there is or is likely to be a person who—
- (a) fears the things mentioned in subsection (1)(c)(i); or
 - (b) suffers in the way mentioned in subsection (1)(c)(ii).

53BC What is *out-of-control conduct*

The following conduct is *out-of-control conduct*—

- (a) unlawfully entering, or remaining in, a place or threatening to enter a place;
- (b) behaving in a disorderly, offensive, threatening or violent way;

Examples for paragraph (b)—

- using offensive, obscene, indecent, abusive or threatening language
 - taking part in a fight
- (c) unlawfully assaulting, or threatening to assault, a person;
 - (d) unlawfully destroying or damaging, or threatening to destroy or damage, property;

- (e) wilfully exposing a person's genitals or doing an indecent act;
- (f) causing or contributing to the emission of excessive noise mentioned in section 576(1);
- (g) driving a motor vehicle in a way that causes a burn out within the meaning of section 69;
- (h) unlawfully lighting fires or using fireworks;
- (i) throwing, releasing or placing a thing in a way that endangers, or is likely to endanger, the life, health or safety of a person;
- (j) unreasonably obstructing the path of a vehicle or pedestrian;
- (k) littering in a way that causes, or is likely to cause, harm to a person, property or the environment;
- (l) being drunk in a public place;
- (m) conduct that would contravene the *Liquor Act 1992*, part 6;
- (n) conduct that would contravene the *Drugs Misuse Act 1986*, part 2.

53BD Other definitions for pt 7

In this part—

associated, with an event, means a person who—

- (a) is at the event; or
- (b) is near the event and is reasonably suspected by a police officer of either—
 - (i) intending to go to the event, whether or not the person was invited to attend the event; or
 - (ii) leaving the event.

[s 4]

commissioner's reasonable costs means the reasonable costs of the commissioner for lawful action taken by the police service under this part, including costs for ending an event or dispersing persons from the event.

event see section 53BB(1)(a).

event authorisation see section 53BE(1).

licensed event means an event held at premises to which any 1 of the following licenses or permits under the *Liquor Act 1992* applies—

- (a) a commercial hotel licence;
- (b) a commercial special facility licence;
- (c) a commercial other licence;
- (d) a community club licence;
- (e) a commercial public event permit;
- (f) an extended hours permit;
- (g) an adult entertainment permit.

organise, an event, means being substantially involved in arranging, hosting, managing, advertising or promoting the event.

out-of-control event power means a power, under section 53BG, for a police officer to take action for an event.

parent includes a guardian other than the chief executive (child safety).

senior police officer means a police officer of at least the rank of sergeant.

Division 2 Powers for out-of-control events

Subdivision 1 Authorisation for using powers

53BE Authorisation by senior police officer

- (1) A senior police officer may authorise the use of out-of-control event powers (an *event authorisation*) in relation to an event if the police officer reasonably believes—
 - (a) the event is an out-of-control event; or
 - (b) the event is likely to become an out-of-control event.
- (2) The event authorisation must be written and state the following—
 - (a) the date and time the authorisation is given;
 - (b) the location of the event;
 - (c) the circumstances that led the senior police officer to authorise using the out-of-control event powers in relation to the event;
 - (d) the restrictions, if any, on using the out-of-control event powers in relation to the event.
- (3) However, the event authorisation is not invalid merely because it is not in writing if the senior police officer makes a written record as required under subsection (2) at the first reasonable opportunity after a police officer exercises an out-of-control event power under the authorisation.
- (4) The event authorisation has effect for 24 hours or a lesser period decided, after the authorisation is given, by—

[s 4]

- (a) the senior police officer who gave the authorisation; or
- (b) another senior police officer.

Subdivision 2 Using powers

53BF Use of powers only if authorised

A police officer may take action under this subdivision only if—

- (a) an event authorisation is given in relation to an event; and
- (b) the officer acts in accordance with the event authorisation.

53BG Taking action for out-of-control event

- (1) A police officer has the powers under subsection (2) for 1 or more of the following purposes in relation to an event—
 - (a) preventing the event becoming an out-of-control event;
 - (b) if the event is an out-of-control event, stopping the event from continuing or starting in another location;
 - (c) dispersing persons associated with the event;
 - (d) minimising the impact of the event on public order or safety;
 - (e) identifying a person organising the event;
 - (f) identifying a person committing an offence under division 3.
- (2) For the purposes mentioned in subsection (1), a police officer may exercise any 1 or more of the following powers—

- (a) stop a vehicle or enter a place without a warrant;
- (b) give a person or group of persons a direction to—
 - (i) stop any conduct; or
 - (ii) immediately leave a place; or
 - (iii) not return to a place within a stated period of not more than 24 hours, unless the person or group resides at the place; or
- (c) take any other steps the police officer considers reasonably necessary.

Division 3 Offences and costs orders

Subdivision 1 Offences

53BH Organising an out-of-control event

- (1) A person commits an offence if—
 - (a) the person organises an event; and
 - (b) the event becomes an out-of-control event.

Maximum penalty—

- (a) if the event is held at a place where the person does not reside or for which the person does not have lawful authority to use—165 penalty units or 3 years imprisonment; or
- (b) otherwise—110 penalty units or 1 year's imprisonment.

[s 4]

- (2) If the person organising the event is a child, the parent of the child is instead liable for the offence if the parent gave the child permission to organise the event.
- (3) In a proceeding for an offence under this section, it is a defence for a person to prove that the person took reasonable steps to prevent the event becoming an out-of-control event.

Examples of taking reasonable steps—

- hiring an appropriate number of security officers for the event
- ending the event as soon as possible after persons who are not invited to the event enter the place where the event is being held

53BI Causing an out-of-control event

- (1) A person commits an offence if the person—
 - (a) has been refused entry to an event; and
 - (b) engages in out-of-control conduct near the event; and
 - (c) as a result of the person’s conduct, the event becomes an out-of-control event.

Maximum penalty—110 penalty units or 1 year’s imprisonment.

- (2) A person may be liable for an offence against subsection (1) even if another person’s conduct contributed to the event becoming an out-of-control event.

53BJ Offence to contravene direction

A person must not, without reasonable excuse, contravene a direction given by a police officer under section 53BG(2).

Maximum penalty—

- (a) if the person contravenes the direction by doing any of the following—
 - (i) unlawfully assaulting, or threatening to assault, another person;
 - (ii) unlawfully destroying or damaging, or threatening to destroy or damage, property;
 - (iii) throwing, releasing or placing a thing in a way that endangers, or is likely to endanger, the life, health or safety of another person;165 penalty units or 3 years imprisonment;
or
- (b) otherwise—110 penalty units or 1 year's imprisonment.

Subdivision 2 Costs orders

53BK Costs order—adult

- (1) This section applies if a person, other than a child, is found guilty by a court of an offence under subdivision 1 in relation to an event.
- (2) The court may, on its own initiative or an application by the commissioner, order the person to pay some or all of the commissioner's reasonable costs in relation to the event.
- (3) An order made under subsection (2) is taken to be an order for compensation under the *Penalties and Sentences Act 1992*, part 3, division 4, payable to the State.

[s 4]

53BL Costs order—child

- (1) This section applies if a child is found guilty by a court of an offence under subdivision 1 in relation to an event.
- (2) The court may, on its own initiative or an application by the commissioner, consider whether the child has the capacity to pay the commissioner's reasonable costs in relation to the event.
- (3) If the court considers the child has the capacity to pay the commissioner's reasonable costs, the court may order the child to pay some or all of the costs.
- (4) An order made by the court under this section is taken to be an order under the *Youth Justice Act 1992*, section 310, payable to the State.

53BM Costs order—parent of child offender

- (1) This section applies if—
 - (a) a court considers the matters mentioned in section 53BL(2); and
 - (b) decides under the section that a child does not have the capacity to pay the commissioner's reasonable costs.
- (2) The court may, on its own initiative or an application by the commissioner, decide to call on the child's parent to show cause why the parent should not pay the commissioner's reasonable costs in relation to the event.
- (3) If the court decides to call on the child's parent to show cause—
 - (a) notice must be given to the parent in the way required under the *Youth Justice Act 1992*, section 258(4) to (8); and

- (b) the show cause hearing must be conducted in the way required under the *Youth Justice Act 1992*, section 259(1) to (4); and
 - (c) the *Youth Justice Act 1992*, section 259(5) applies as if the reference to ‘section 258(1)(a), (b) and (c)’ were a reference to subsection (5)(a) and (b); and
 - (d) the *Youth Justice Act 1992*, section 259(6) to (12) applies to the court’s decision and orders.
- (4) For applying subsection (3)—
- (a) a reference to compensation in the *Youth Justice Act 1992*, sections 258 and 259 is taken to be a reference to the commissioner’s reasonable costs; and
 - (b) a reference to the prosecution in the *Youth Justice Act 1992*, sections 258 and 259 is taken to be a reference to the commissioner.
- (5) For subsection (3)(c), the matters are—
- (a) the parent contributed to the fact the offence happened by not adequately supervising the child; and
 - (b) it is reasonable the parent pay some or all of the commissioner’s reasonable costs.
- (6) The *Youth Justice Act 1992*, section 260 applies to the commissioner’s reasonable costs ordered to be paid under subsection (5) as if it were an order for compensation to be paid to the State under the *Youth Justice Act 1992*, section 259.

53BN Costs orders and other sentencing

- (1) A court may make an order under this subdivision in addition to any other sentence to which a person, including a child, is liable.

[s 5]

- (2) To remove any doubt, it is declared that sections 53BL and 53BM apply in addition to the *Youth Justice Act 1992*, part 7.

5 Amendment of s 118 (Sale of motor vehicle if not recovered after impounding ends)

Section 118(4) to (7)—

omit, insert—

- (4) Notice of the proposed sale or disposal must be published on the police service website.
- (5) If the name and address of the owner of the motor vehicle is known—
- (a) the commissioner must also give written notice of the proposed sale or disposal to the owner; and
- (b) the owner's name and address must not be published on the police service website.

6 Amendment of s 118A (Sale of impounded motor vehicle if driver fails to appear)

Section 118A(5) to (8)—

omit, insert—

- (5) Notice of the proposed sale or disposal must be published on the police service website.
- (6) If the name and address of the owner of the motor vehicle is known—
- (a) the commissioner must also give written notice of the proposed sale or disposal to the owner; and
- (b) the owner's name and address must not be published on the police service website.

7 Amendment of s 126 (Steps after seizing a vehicle, load or other thing)

Section 126(3), from ‘given’—

omit, insert—

published on the police service website.

8 Amendment of s 127 (Disposal of seized or moved vehicle, load or other thing)

Section 127(2)—

omit, insert—

- (2) Notice of the proposed sale must be published on the police service website.

9 Amendment of s 139 (Steps after seizing animal)

Section 139(3), from ‘given’—

omit, insert—

published on the police service website.

10 Amendment of s 140 (Recovery of seized animal)

Section 140(2)—

omit, insert—

- (2) Notice of the proposed sale must be published on the police service website.

11 Amendment of s 147 (Powers to provide relief to animal)

- (1) Section 147(3)—

omit.

- (2) Section 147(5), ‘subsection (4)’—

omit, insert—

[s 12]

subsection (3)

(3) Section 147(4) to (6)—

renumber as section 147(3) to (5).

12 Replacement of s 195L (Destruction of registered digital photo)

Section 195L—

omit, insert—

195L Destruction of registered digital photo

- (1) This section applies to copies of a person's registered digital photo—
 - (a) accessed, under this part or a prescribed smartcard Act, by a police officer; and
 - (b) in the possession of the police service, including by electronic communication.
- (2) The commissioner must take reasonable steps to destroy copies of the person's registered digital photo if—
 - (a) the photo was accessed for a purpose relevant to the investigation or prosecution of an offence by the person and—
 - (i) the person is found not guilty of the offence; or
 - (ii) a proceeding for the offence has not started within 1 year after the day the photo was first accessed; or
 - (b) the photo is no longer required for the purpose for which it was accessed; or
 - (c) the photo was accessed under section 195E and a post-access approval order is not made for the access.
- (3) Subsection (2) does not apply if—

-
- (a) the person has been found incapable of standing trial for the offence because of mental illness; or
- (b) the person's registered digital photo was accessed for a purpose relevant to the investigation or prosecution of more than 1 offence and for at least 1 of the offences—
- (i) the person is found guilty; or
- (ii) a proceeding has started against the person but a finding has not been made by the court about whether or not the person is guilty.
- (4) The destruction of a copy of a registered digital photo must be carried out within a reasonable period after—
- (a) the later of the following if the photo was accessed under section 195E and a post-access approval order is not made for the access—
- (i) the period during which the commissioner may appeal against the justice's order under section 195H(2) ends;
- (ii) if the commissioner starts an appeal under section 195H(2) in relation to the justice's order—the appeal is finally decided; or
- (b) otherwise—the commissioner becomes aware of a circumstance mentioned in subsection (2)(a) or (b) in relation to the photo.
- (5) In this section—
- destroy**, a registered digital photo, includes—
- (a) deleting an electronic copy of the photo; and

[s 13]

- (b) ending the way in which the photo may be accessed electronically.

13 Insertion of new ch 7, pt 7

After section 197—

insert—

Part 7 Accessing account information

197A Definitions for pt 7

In this part—

account—

- (a) means a facility or arrangement through which a financial institution accepts deposits or allows withdrawals; and
- (b) includes a facility or arrangement with a financial institution for a fixed term deposit or safety deposit box.

financial institution includes—

- (a) a corporation that is (or that, if it had been incorporated in Australia, would be) a financial corporation within the meaning of the Commonwealth Constitution, section 51(xx); and
- (b) another corporation that permits persons to deposit money with it for use by, or at the direction of, the persons for gaming or betting.

senior police officer means a police officer of at least the rank of inspector.

197B Giving notice to financial institution

- (1) This section applies if a senior police officer—
 - (a) reasonably suspects an offence has been committed, is being committed, or is about to be committed; and
 - (b) reasonably believes the advice sought in a notice under this section is required for—
 - (i) investigating the offence; or
 - (ii) commencing proceedings against a person for the offence; or
 - (iii) taking steps reasonably necessary to prevent the commission of the offence.
- (2) A senior police officer may give a written notice to a financial institution stating a name and requiring the institution to advise the police officer—
 - (a) whether a person of the stated name is authorised, or was authorised at any time, to operate an account held with the financial institution; and
 - (b) if so, the name in which the account is or was held and the account number.
- (3) Also, a senior police officer may give a written notice to a financial institution stating a number and requiring the institution to advise the police officer—
 - (a) whether an account with the stated number is held, or was held at any time, with the financial institution; and
 - (b) if so, the name in which the account is or was held and the name of any person who is or was authorised to operate the account.
- (4) A notice under subsection (2) or (3) must also state each of the following—

[s 13]

- (a) the name and contact details of the senior police officer giving the notice;
 - (b) that the police officer has the reasonable suspicion and belief required to give the notice under subsection (1);
 - (c) that the financial institution must comply with the notice within a stated reasonable period;
 - (d) how and to whom the advice must be given;
 - (e) a description of the offence under section 197D.
- (5) The notice may state any other details that may help the financial institution identify an account.
- (6) The same notice may be given—
- (a) about more than 1 name or account number; and
 - (b) to more than 1 financial institution.
- (7) When giving a notice under this section, the senior police officer giving the notice must make a written record of the reasons the officer has the reasonable suspicion and belief required to give the notice under subsection (1).

197C Protection from suits etc. in relation to action taken

A person is not liable to any action, suit or proceeding in relation to action taken by the person—

- (a) as required by a notice given under this part; or
- (b) in the mistaken belief that the action was required by the notice.

197D Financial institution to comply with notice

- (1) A financial institution must comply with a notice given to it under this part.
Maximum penalty—100 penalty units.
- (2) However, a financial institution must comply with the notice only to the extent that records needed to comply with the notice are held by, or are under the control of, the institution.
- (3) It is a defence to a prosecution for an offence against subsection (1) for the financial institution to prove it—
 - (a) could not reasonably comply with the notice within the period stated in the notice; and
 - (b) took reasonable steps to comply with the notice; and
 - (c) gave the advice sought in the notice as soon as practicable after the period for compliance stated in the notice.

14 Amendment of s 332 (What a surveillance device warrant authorises)

- (1) Section 332(3)(a) to (f)—
renumber as section 332(3)(b) to (g).
- (2) Section 332(3)—
insert—
 - (a) the preparatory action reasonably necessary to facilitate the installation of the surveillance device, for example, inspecting and photographing the internal layout of premises; and

[s 15]

15 Amendment of s 382 (Notice to appear may be issued for offence)

(1) Section 382(4), from ‘as provided’ to ‘or (b).’—

omit, insert—

in the way provided for under the *Justices Act 1886*, section 56(2)(a), (b) or (c).

(2) Section 382(4), note, from ‘56(2)(a)’ to ‘cases’—

omit, insert—

56(2)(a) to (c) authorise service

16 Amendment of s 445 (Who are *qualified persons*)

Section 445(2), ‘doctor or dentist’—

omit, insert—

doctor, dentist or forensic nurse examiner

17 Amendment of s 463 (When forensic procedure order ends)

Section 463(2), from ‘doctor’ to ‘section 509(3)’—

omit, insert—

doctor or forensic nurse examiner is performing an intimate forensic procedure under the order and the doctor or forensic nurse examiner decides to also perform a non-intimate procedure under section 509(3) or 509A(3)

18 Amendment of s 481 (Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.)

(1) Section 481(2), (4) and (6)—

omit.

(2) Section 481(3), ‘, with the approval of a senior officer,’—

omit.

- (3) Section 481(5), ‘under an approval of a senior officer’—

omit.

- (4) Section 481(3) and (5)—

renumber as section 481(2) and (3).

19 Amendment of s 482 (DNA sample notice)

- (1) Section 482(2), ‘With the approval of a senior officer, a’—

omit, insert—

A

- (2) Section 482(3) and (5)—

omit.

- (3) Section 482(4)—

renumber as section 482(3).

20 Insertion of new s 488B

Chapter 17, part 5, division 4, before section 489—

insert—

488B Commissioner may enter into DNA arrangement

- (1) The commissioner may enter into a contract or other arrangement (each a ***DNA arrangement***) with 1 or both of the following about analysing DNA under section 489—
- (a) the chief executive (health);
 - (b) the chief executive officer, however described, of an accredited laboratory.
- (2) In this section—

[s 21]

accredited laboratory means a laboratory accredited as complying with ISO/IEC 17025:2005 by—

- (a) the National Association of Testing Authorities, Australia; or
- (b) another entity the commissioner is satisfied is appropriately qualified to accredit a laboratory for compliance with ISO/IEC 17025:2005.

ISO/IEC 17025:2005 means the standard titled ‘ISO/IEC 17025: 2005—General requirements for the competence of testing and calibration laboratories’, published jointly by the International Organisation for Standardisation and the International Electrotechnical Commission.

21 Amendment of s 489 (Power to analyse etc. DNA samples)

Section 489(1), from ‘an arrangement’ to ‘(health)’—

omit, insert—

a DNA arrangement

22 Amendment of ch 17, pt 7, hdg (Forensic procedures performed by doctors and dentists)

Chapter 17, part 7, heading, ‘doctors and dentists’—

omit, insert—

doctors, dentists and forensic nurse examiners

23 Amendment of s 501 (Application of pt 7)

(1) Section 501(1), ‘doctor or dentist’—

omit, insert—

doctor, dentist or forensic nurse examiner (each a
forensic examiner)

(2) Section 501(2) and (3), ‘doctor or dentist’—

omit, insert—

forensic examiner

24 Replacement of s 502 (When doctor or dentist may be asked to perform forensic procedure)

Section 502—

omit, insert—

502 When forensic examiner may be asked to perform forensic procedure

- (1) A police officer may ask a forensic examiner to perform a forensic procedure on a person only if the performance of the procedure is authorised under a forensic procedure consent or a forensic procedure order.
- (2) The police officer may ask a forensic nurse examiner to perform the forensic procedure only if the forensic nurse examiner is the same sex as the person who is to undergo the procedure.
- (3) Subsection (2) does not apply if it is not reasonably practicable to ask a forensic nurse examiner of the same sex to perform the forensic procedure.
- (4) If the forensic procedure is to be performed under a forensic procedure order, the police officer must give the forensic examiner a copy of the order.

25 Amendment of s 503 (What person must be told before doctor or dentist performs a forensic procedure)

Section 503, ‘doctor or dentist’—

[s 26]

omit, insert—

forensic examiner

26 Insertion of new s 509A

After section 509—

insert—

509A Forensic nurse examiner's powers

- (1) This section applies if a police officer asks a forensic nurse examiner to perform a forensic procedure on a person under section 502.
- (2) The forensic nurse examiner may perform a forensic procedure that may provide evidence of the commission of the offence to which the forensic procedure consent or forensic procedure order relates.
- (3) If the forensic nurse examiner is performing an intimate forensic procedure and considers it reasonably necessary to also perform a non-intimate forensic procedure, the forensic nurse examiner may also perform a non-intimate forensic procedure on the person that may provide evidence of the commission of the offence.
- (4) The forensic nurse examiner may act under subsection (3) whether or not it is necessary to do so to enable the forensic nurse examiner to perform the intimate forensic procedure.

27 Amendment of s 511 (Samples and results of analysis to be given to person)

- (1) Section 511(1), 'doctor or dentist'—

omit, insert—

forensic examiner

- (2) Section 511(3), ‘doctor considers’—
omit, insert—
doctor or forensic nurse examiner considers
- (3) Section 511(3), ‘doctor may’—
omit, insert—
doctor or forensic nurse examiner may
- (4) Section 511(4), ‘doctor taking’—
omit, insert—
doctor or forensic nurse examiner taking

28 Amendment of s 517 (Help with, and use of force for, performing forensic procedure)

- (1) Section 517(3), ‘the doctor or dentist’—
omit.
- (2) Section 517(3)(b), ‘doctor or another dentist’—
omit, insert—
doctor, dentist or forensic nurse examiner

29 Amendment of s 577 (Complaint about noise)

Section 577(1)—

omit, insert—

- (1) A person may make a complaint, including an anonymous complaint, to a police officer about noise emitted from a place.

30 Amendment of s 578 (How to decide what is excessive noise—noise emitted from a place)

Section 578(1)(c), ‘the complainant’s’—

omit.

[s 31]

31 Amendment of s 579 (How to decide what is excessive noise—noise emitted by motorbike driven on a place that is not a road)

Section 579(1)(c), ‘the complainant’s’—
omit.

32 Amendment of s 580 (How to decide what is excessive noise—noise emitted in other particular circumstances)

Section 580(1)(c), ‘the complainant’s’—
omit.

33 Amendment of s 582 (Compliance with noise abatement direction)

(1) Section 582—

insert—

(3A) In a proceeding for an offence against this section, it is not necessary to prove the noise abatement direction was given in response to a complaint about noise made to a police officer.

(2) Section 582(4), definition *noise abatement period*, paragraph (b), ‘12’—

omit, insert—

96

(3) Section 582(3A) and (4)—

renumber as section 582(4) and (5).

34 Amendment of s 583 (Additional powers of police officers on later investigation)

Section 583(1)(b), ‘section 582(4)’—

omit, insert—

section 582(5)

35 Amendment of s 584 (Offence to interfere with locked etc. property)

Section 584(2), from 'within' to 'about'—

omit, insert—

during the noise abatement period, as defined under section 582(5), for

36 Amendment of s 585 (Recovery of seized property)

Section 585(2), from 'not earlier'—

omit, insert—

after the end of the noise abatement period, as defined under section 582(5), for the place where the property is found.

37 Amendment of s 718 (Order for forfeiture of particular relevant things)

Section 718(4), from 'given'—

omit, insert—

published on the police service website.

38 Amendment of s 719 (Order for forfeiture of relevant things connected with offences)

Section 719(4)(a)—

omit, insert—

(a) must be—

- (i) given, in writing, to the owner of the thing, if the name and address of the owner is known; or
- (ii) if the name and address of the owner is not known, given to the person who appeared to have possession of the thing before it was seized; or

[s 40]

(iii) otherwise, published on the police service website; and

40 Amendment of s 783 (Sale of motor vehicle if not recovered after impounding ends)

Section 783(2)—

omit, insert—

- (2) Notice of the proposed sale or disposal must be published on the police service website.

41 Omission of s 805 (Availability of Act)

Section 805—

omit.

42 Amendment of sch 6 (Dictionary)

- (1) Schedule 6—

insert—

account, for chapter 7, part 7, see section 197A.

DNA arrangement see section 488B(1).

forensic examiner, for chapter 17, part 7, see section 501(1).

forensic nurse examiner means a nurse who is appointed by the chief executive (health) to perform the role of a forensic nurse examiner.

senior police officer—

- (a) for chapter 2, part 7, see section 53BD; or
(b) for chapter 7, part 7, see section 197A.

- (2) Schedule 6—

insert—

associated, with an event, for chapter 2, part 7, see section 53BD.

commissioner's reasonable costs, for chapter 2, part 7, see section 53BD.

event authorisation, for chapter 2, part 7, see section 53BE(1).

licensed event, for chapter 2, part 7, see section 53BD.

organise, an event, for chapter 2, part 7, see section 53BD.

out-of-control event power, for chapter 2, part 7, see section 53BD.

- (3) Schedule 6, definition *enforcement act*—

insert—

- (p) the exercise of out-of-control event powers under section 53BG.

- (4) Schedule 6, definition *event*—

omit, insert—

event—

- (a) for chapter 2, part 3, see section 34; or
(b) for chapter 2, part 7, see section 53BB(1)(a).

- (5) Schedule 6, definition *financial institution*, paragraph (b)—

omit, insert—

- (b) for chapter 7, part 7, see section 197A; and
(c) for chapter 8, see section 198.

- (6) Schedule 6, definition *parent*—

omit, insert—

parent—

- 1 for chapter 2, part 7, see section 53BD; or
2 of a person, for chapter 17—

[s 43]

- (a) means a parent or guardian of the person; and
 - (b) includes—
 - (i) for an Aboriginal person, a person who, under Aboriginal tradition, is regarded as a parent of the person; or
 - (ii) for a Torres Strait Islander person, a person who, under Island custom, is regarded as a parent of the person; but
 - (c) does not include an approved carer of the person under the *Child Protection Act 1999*.
- (8) Schedule 6, definition *time out*, paragraph (k)(i), ‘doctor or dentist’—
omit, insert—
doctor, dentist or forensic nurse examiner

Part 3 **Amendment of Evidence Act 1977**

43 **Act amended**

This part amends the *Evidence Act 1977*.

44 **Amendment of s 95A (DNA evidentiary certificate)**

- (1) Section 95A(4), ‘chief executive receives’—
omit, insert—
responsible person for the laboratory receives
- (2) Section 95A(4), ‘chief executive must’—

omit, insert—

responsible person must

- (3) Section 95A(5), ‘chief executive and’—

omit, insert—

responsible person and

- (4) Section 95A(9), definition *chief executive*—

omit.

- (5) Section 95A(9)—

insert—

responsible person, for a laboratory, means—

- (a) if the commissioner of the police service has entered into a DNA arrangement with the laboratory under the *Police Powers and Responsibilities Act 2000*, section 488B(1)—the chief executive officer, however described, of the laboratory; or
- (b) otherwise—the chief executive of the department within which the *Hospital and Health Boards Act 2011* is administered.

45 Amendment of s 133A (DNA analysts)

Section 133A—

insert—

- (3) Subsection (4) applies if the commissioner of the police service has entered into a DNA arrangement with a laboratory under the *Police Powers and Responsibilities Act 2000*, section 488B(1).
- (4) The chief executive officer, however described, of the laboratory may, by written notice, appoint an employee of the laboratory as a DNA analyst if satisfied the employee has the necessary

[s 46]

qualifications and experience to be a DNA analyst.

- (5) The appointment takes effect—
- (a) on the day the notice is given to the employee; or
 - (b) if a later day is stated in the notice, the later day.

Part 4

Amendment of Transport Operations (Road Use Management) Act 1995

46 Act amended

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

47 Amendment of s 112 (Use of speed detection devices)

Section 112—

insert—

- (2) This section does not apply to a device that is a photographic detection device.

48 Amendment of s 120 (Evidentiary provisions)

Section 120(4)—

omit, insert—

- (4) If an image produced under subsection (2) has a marking or writing on the image—

- (a) the marking or writing is taken to have been properly made by the photographic detection device; and
- (b) the image is also evidence of each thing in relation to the image that the marking or writing is prescribed to mean under a regulation.

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