

Queensland

Police Powers and Responsibilities and Other Acts Amendment Bill 2006



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A BILL

for

An Act to amend the *Police Powers and Responsibilities Act 2000*, and for related purposes

The Parliament of Queensland enacts—

	The F	Parlia	ment of Queensland enacts—	1
	Part	: 1	Preliminary	2
Clause	1	Sh	ort title	3
			This Act may be cited as the Police Powers and Responsibilities and Other Acts Amendment Act 2006.	4 5
Clause	2	Со	mmencement	6
		(1)	This Act, other than the following provisions, commences on a day to be fixed by proclamation—	7 8
			(a) sections 3, 8 to 25, 31 to 37 and 53;	9
			(b) section 85, other than to the extent it inserts new sections 510, 512 and 513;	10 11
			(c) section 86, to the extent it inserts schedule 3B;	12
			(d) section 87(2), to the extent it inserts the definitions <i>prescribed place</i> and <i>regulated place</i> ;	13 14
			(e) parts 3 and 4;	15
			(f) sections 107, 108 and 109;	16
			(g) schedule 1, amendments 7 and 8.	17
		(2)	Sections 13 to 17 commence on 1 July 2006.	18
		(3)	Sections 18 to 23 and schedule 1, amendments 7 and 8 commence immediately after the commencement of section 7 of the <i>Police Powers and Responsibilities (Motorbike Noise) Amendment Act 2005</i> .	19 20 21 22
		(4)	Sections 24 and 25 commence immediately after the commencement of section 14 of the <i>Police Powers and Responsibilities (Motorbike Noise) Amendment Act 2005.</i>	23 24 25
		(5)	Sections 31 and 32 commence immediately after the commencement of schedule 1, amendment 8 of the	26 27

Cross-Border Law Enforcement Legislation Amendment Act 2005.

- (6) If this section commences before the commencement of 3 section 12 of the *Cross-Border Law Enforcement Legislation* 4 *Amendment Act 2005*, sections 3, 33(1), 34(1), 35 and 36 and 5 section 85, to the extent it inserts new sections 512 and 513, 6 commence immediately after the commencement of section 7 12 of that Act.
- (7) However, if this section commences after the commencement 9 of section 12 of the *Cross-Border Law Enforcement* 10 *Legislation Amendment Act 2005*, sections 3, 33(1), 34(1), 35 11 and 36 and section 85, to the extent it inserts new sections 512 12 and 513, are taken to have commenced immediately after the 13 commencement of section 12 of that Act. 14
- (8) If this section commences before the commencement of 15 section 51¹ of the *Cross-Border Law Enforcement Legislation* 16 *Amendment Act 2005*, sections 107, 108 and 109 commence 17 immediately after the commencement of section 51 of that 18 Act.
- (9) However, if this section commences after the commencement
 (9) However, if this section commences after the commencement
 (9) of section 51 of the Cross-Border Law Enforcement
 (9) 20
 (9) 21
 (10) 21
 (10) 22
 (10) 22
 (10) 23
 (10) 24
 (10) 24
- (10) If this section commences before the commencement of section 69 of the *Cross-Border Law Enforcement Legislation* 26 *Amendment Act 2005*, part 4 commences immediately after 27 the commencement of section 69 of that Act. 28
- (11) However, if this section commences after the commencement 29 of section 69 of the *Cross-Border Law Enforcement* 30 *Legislation Amendment Act 2005*, part 4 is taken to have 31 commenced immediately after the commencement of section 32 69 of that Act. 33

1

¹ Cross-Border Law Enforcement Legislation Amendment Act 2005, section 51 (Replacement of pt 2, div 5 (Witness anonymity))

(12)	Sections $33(2)$ and (3) , $34(2)$ to (6) and 86 , to the extent it inserts schedule 3B, commence immediately after the commencement of sections $33(1)$ and $34(1)$.	1 2 3					
(13)	Sections 85, to the extent it inserts section 510, and 87(2), to the extent it inserts the definitions <i>prescribed place</i> and <i>regulated place</i> , and part 3 commence on the date of assent.						
(14)	Section 37 commences on the later of the following—	7					
	(a) the date of assent;	8					
	(b) the commencement of the <i>Corrective Services Act 2006</i> , section 112. ²	9 10					
(15)	Section 53 commences, or is taken to have commenced, immediately after the commencement of the <i>Cross-Border Law Enforcement Legislation Amendment Act 2005</i> , section 13. ³	11 12 13 14					

Part 2Amendment of Police Powers15and Responsibilities Act 200016

Clause 3	Act amended in pt 2 and sch 1 and references	17
	(1) This part and schedule 1 amend the <i>Police Powers and Responsibilities Act 2000.</i>	18 19
	(2) Also, a reference in this part or schedule 1 to—	20
	 (a) sections 127 and 131 of the Police Powers and Responsibilities Act 2000 is a reference to the provisions as renumbered and relocated by the Cross-Border Law Enforcement Legislation Amendment Act 2005, schedule 1; or 	21 22 23 24 25

² *Corrective Services Act 2006*, section 112 (Arresting prisoner unlawfully at large)

³ Cross-Border Law Enforcement Legislation Amendment Act 2005, section 13 (Amendment of s 373 (Assistance in exercising powers))

		(b) sections 132, 135, 141, 197ZI and 197ZK is a reference to the provisions as inserted by the <i>Cross-Border Law</i> <i>Enforcement Legislation Amendment Act 2005</i> .	1 2 3
	(3)	In addition, a reference in this part or schedule 1 to section 59LP, 59LQ, 59LS, 59LU, 59LX, 59LY, 59Q or 59ZI, chapter 2D or section 367A of the <i>Police Powers and Responsibilities Act 2000</i> is a reference to the provisions as inserted by the <i>Police Powers and Responsibilities (Motorbike Noise) Amendment Act 2005</i> .	4 5 6 7 8 9
	(4)	Subsections (2) and (3) and this subsection expire immediately after the last amendment of the provisions mentioned in subsection (2) or (3) commences.	10 11 12
Clause 4	Am	nendment of s 20 (Power to enter etc. for relevant laws)	13
	(1)	Section 20(5)—	14
		renumber as section 20(6).	15
	(2)	Section 20(4)—	16
		omit, insert—	17
	'(4)	Each of the following persons is taken for this section to be a licence holder under a relevant law—	18 19
		(a) a person who is required under the <i>Drugs Misuse Act</i> 1986, section 43D to keep a register; ⁴	20 21
		(b) a person who is required under the Road Use Management Act, section 133 to keep a register; ⁵	22 23
		(c) a person who is required under the <i>Health Act 1937</i> , or a regulation under that Act, to make a record in relation to a sale by retail of a substance that is a prescribed item.	24 25 26
		Note—	27
		At the time of enactment of this subsection, the <i>Health (Drugs and Poisons) Regulation 1996</i> requires a person who sells particular poisons	28 29

⁴ *Drugs Misuse Act 1986*, section 43D (Requirements for supply of controlled substance under relevant transactions)

⁵ Road Use Management Act, section 133 (Occupiers of garages etc. to keep register of repairs)

			by retail to make a record relating to those sales. Those poisons include pseudoephedrine as an S3 poison within the meaning of that regulation. If pseudoephedrine as an S3 poison were declared to be a prescribed item, the person selling it would be taken under paragraph (c) to be a licence holder under a relevant law.	1 2 3 4 5
		'(5)	Also, each of the following places is taken for this section to be a place used under a licence under a relevant law—	6 7
			 (a) a place used by a person to carry out activities for which entries must be made in a register as mentioned in subsection (4)(a) or (b); 	8 9 10
			 (b) a place used by a person to carry out activities for which records must be made as mentioned in subsection (4)(c).'. 	11 12 13
Clause	5		nendment of s 28 (Prescribed circumstances for arching persons without warrant)	14 15
		(1)	Section 28(a)(vi), 'the police officer reasonably suspects'—	16
			omit, insert—	17
			'that'.	18
		(2)	Section 28(a)—	19
			insert—	20
			'(vii)evidence of the commission of an offence against the Criminal Code, section 469 ⁶ that may be concealed on the person or destroyed if, in the circumstances of the offence, the offence is not a seven year imprisonment offence; or	21 22 23 24 25
			(viii) evidence of the commission of an offence against the <i>Summary Offences Act 2005</i> , section 17; ⁷ .	26 27
Clause	6		nendment of s 30 (Prescribed circumstances for arching vehicles without warrant)	28 29
		(1)	Section 30, 'the vehicle may have in it something'—	30

⁶ Criminal Code, section 469 (Wilful damage)

⁷ Summary Offences Act 2005, section 17 (Graffiti instrument)

		omit	t, insert—	1
		'the	re is something in the vehicle'.	2
	(2)	Sect	ion 30(g), first dot point—	3
		omit	t, insert—	4
		'•	the Racing Act 2002'.	5
	(3)	Sect	ion 30(j), 'the police officer reasonably suspects'—	6
		omit	t, insert—	7
		'that		8
	(4)	Sect	ion 30(k)—	9
		renu	umber as section 30(m).	10
	(5)	Sect	ion 30—	11
		inse	rt—	12
		'(k)	may be evidence of the commission of an offence against the Criminal Code, section 469 ⁸ that may be concealed on the person or destroyed if, in the circumstances of the offence, the offence is not a seven year imprisonment offence; or	13 14 15 16 17
		(1)	may be evidence of the commission of an offence against the <i>Summary Offences Act 2005</i> , section 17; ⁹ or'.	18 19 20
7			nent of s 33 (Prescribed circumstances for g name and address)	21 22
	(1)	Sect	ion 33(b), after 'an offence'—	23
		inse	rt—	24
		', ine	cluding an extradition offence'.	25
	(2)	Sect	ion 33(c)(ii), ', 318D'—	26
		omit		27

Clause

⁸ Criminal Code, section 469 (Wilful damage)

⁹ Summary Offences Act 2005, section 17 (Graffiti instrument)

Clause	8	Ins	ertion of new s 35A	1
			Chapter 2, part 4, before section 36—	2
			insert—	3
	'35A	Арј	plication of pt 4	4
			'This part applies in relation to the following places (<i>regulated places</i>)—	5 6
			(a) public places;	7
			(b) prescribed places that are not also public places.'.	8
Clause	9	Am	endment of s 37 (When power applies to behaviour)	9
		(1)	Section 37(1), 'prescribed place'—	10
			omit, insert—	11
			'regulated place'.	12
		(2)	Section 37(2), (3) and (4)—	13
			renumber as section 37(3), (5) and (6).	14
		(3)	Section 37(5), as renumbered by subsection (2), 'prescribed place'—	15 16
			omit, insert—	17
			'regulated place'.	18
		(4)	Section 37—	19
			insert—	20
		'(2)	If the regulated place is a public place, subsection (1) applies in relation to a person at or near the public place only if the person's behaviour has or had the effect mentioned in subsection $(1)(a)$, (b) , (c) or (d) in the part of the public place at or near where the person then is.'.	21 22 23 24 25
		(5)	Section 37—	26
			insert—	27
		'(4)	However, subsections (1)(b) and (3) do not limit subsection (1)(a), (c) and (d).'.	28 29

Clause	10		nendment of s 38 (When power applies to a person's esence)			
		(1)	Secti	on 38(1), 'prescribed place'—	3	
			omit,	insert—	4	
			'regu	lated place'.	5	
		(2)	Secti	on 38(2) and (3)—	6	
			renur	nber as section 38(3) and (5).	7	
		(3)	Secti	on 38—	8	
			inser	<i>t</i> —	9	
		'(2)	in rel perso subse	e regulated place is a public place, subsection (1) applies lation to a person at or near the public place only if the on's presence has or had the effect mentioned in ection $(1)(a)$, (b) or (c) in the part of the public place at or where the person then is.'.	10 11 12 13 14	
		(4)	Secti	on 38—	15	
			inser	<i>t</i> —	16	
		'(4)		ever, subsections (1)(b) and (3) do not limit subsection) and (c).'.	17 18	
Clause	11	Am	nendm	nent of s 39 (Direction may be given to person)	19	
			Secti	on 39(3)—	20	
			omit,	insert—	21	
		' (3)		out limiting subsection (1), a direction may require a on to do 1 of the following—	22 23	
			(a)	leave the regulated place and not return or be within the regulated place within a stated reasonable time of not more than 24 hours;	24 25 26	
			(b)	leave a stated part of the regulated place and not return or be within the stated part of the regulated place within a stated reasonable time of not more than 24 hours;	27 28 29	
			(c)	move from a particular location at or near the regulated place for a stated reasonable distance, in a stated direction, and not return or be within the stated distance	30 31 32	

			from the place within a stated reasonable time of not more than 24 hours.'.	1 2
Clause	12	Re	placement of ss 40–41	3
			Sections 40 and 41—	4
			omit, insert—	5
	'40	Re	view	6
		' (1)	The CMC must review the use by police officers of powers under this part and prepare a report on the review.	7 8
		'(2)	The review must be started as soon as practicable after 31 December 2007.	9 10
		' (3)	The conduct of the review and the preparation of the report is a function of the CMC for the <i>Crime and Misconduct Act 2001</i> .	11 12 13
		'(4)	In the course of preparing the report, the CMC must consult with the Minister.	14 15
		' (5)	The CMC must give a copy of the report to the Speaker for tabling in the Legislative Assembly.'.	16 17
Clause	13	Am	nendment of s 50 (Power for regulating traffic)	18
		(1)	Section 50, heading, after 'regulating'—	19
			insert—	20
			'vehicular and pedestrian'.	21
		(2)	Section 50(1) and (2), ', signal or order'—	22
			omit.	23
		(3)	Section 50(3)—	24
			omit, insert—	25
		'(3)	Without limiting subsection (1), a police officer may act under that subsection if the police officer reasonably suspects an emergency exists or it is otherwise necessary to temporarily prohibit, divert or direct traffic and pedestrians.	26 27 28 29

Police Powers and Responsibilities and Other Acts Amendment Bill 2006

			Examples for subsection (3)—	1
			1 A siege where firearms are being discharged and members of the public may be hurt.	2 3
			2 A serious or fatal road accident requiring treatment of injured persons, removal of bodies, wreckage to be cleared or evidence to be gathered for investigating the cause of the accident.'.	4 5 6
		(4)	Section 50(4), 'or (3)'—	7
			omit.	8
Clause	14		nendment of s 51 (Stopping vehicles for prescribed rposes)	9 10
			Section 51(1), after 'a train'—	11
			insert—	12
			'or a vehicle being pulled by an animal'.	13
Clause	15		nendment of s 56 (Power to require vehicle spections)	14 15
		(1)	Section 56(1)—	16
			omit, insert—	17
		' (1)	If a police officer reasonably suspects a vehicle may not comply with a transport Act, the police officer may require either of the following to have the vehicle inspected at a stated reasonable time and place—	18 19 20 21
			(a) the owner of the vehicle;	22
			(b) if there is a registered operator for the vehicle and the registered operator, apart from being the registered operator, is not the owner of the vehicle—the registered operator for the vehicle.'.	23 24 25 26
		(2)	Section 56—	27
			insert—	28
		' (4)	In this section—	29
			<i>owner</i> , of a vehicle, has the meaning given under the Road Use Management Act, schedule 4.'.	30 31

Clause	16	Amendment of s 57 (Power to prohibit use of vehicles)	1
		(1) Section 57(1), after 'owner'—	2
		insert—	3
		'or, if there is a registered operator for the vehicle and the registered operator, apart from being the registered operator, is not the owner of the vehicle, its registered operator,'.	4 5 6
		(2) Section 57(5), after 'owner'—	7
		insert—	8
		'or registered operator'.	9
		(3) Section 57(8), definition <i>owner</i> , after 'Act'—	10
		insert—	11
		', schedule 4'.	12
Clause	17	Amendment of s 58 (Power to prohibit persons driving)	13
		(1) Section 58(1), 'driver'—	14
		omit, insert—	15
		'person in control'.	16
		(2) Section 58(2), 'driver'—	17
		omit, insert—	18
		'person in control'.	19
		(3) Section 58(2), 'a vehicle'—	20
		omit, insert—	21
		'the vehicle'.	22
Clause	18	Amendment of s 59LP (When application to be heard—vehicle related offence)	23 24
		Section 59LP—	25
		insert—	26
		(3) However, if, after an application for a forfeiture order in relation to a vehicle related offence is made—	27 28

		(a)	the person to whom the application relates is found not guilty of 1 of the vehicle related offences or the proceeding for 1 of the offences is discontinued; and	1 2 3
		(b)	no motor vehicle has previously been impounded for a vehicle related offence committed within the relevant period on an application for an impounding order made in relation to that person for an offence to which the application for the forfeiture order relates;	4 5 6 7 8
			elevant court may hear and decide the application for the eiture order as if it were an application for an impounding r.	9 10 11
	'(4)		application to which subsection (3) applies is taken, for ions 2 and 3, to be an application for an impounding r.'.	12 13 14
Clause 19			nent of s 59LQ (When application to be motorbike noise order offence)	15 16
		Secti	ion 59LQ—	17
		inser	<i>t</i> —	18
	'(3)		ever, if, after an application for a forfeiture order in ion to a motorbike noise order offence is made—	19 20
		(a)	the person to whom the application relates is found not guilty of 1 of the motorbike noise order offences or the proceeding for 1 of the offences is discontinued; and	21 22 23
		(b)	no motorbike has previously been impounded for a motorbike noise order offence committed within the relevant period on an application for an impounding order made in relation to that person for an offence to which the application for the forfeiture order relates;	24 25 26 27 28
			elevant court may hear and decide the application for the eiture order as if it were an application for an impounding r.	29 30 31
	'(4)		application to which subsection (3) applies is taken, for ions 2 and 3, to be an application for an impounding r.'.	32 33 34

Clause	20		endment of s 59LS (Consideration of application for feiture order)	1 2
			Section 59LS(2)—	3
			omit, insert—	4
		' (2)	If—	5
			(a) under subsection (1), the relevant court orders the impounding of the motor vehicle to which the application relates; and	6 7 8
			 (b) a relevant court has previously made an impounding order under section 59LR for a vehicle related offence committed within the relevant period and forming the basis of the application; 	9 10 11 12
			the motor vehicle is impounded under subsection (1) for the vehicle related offence giving rise to the application for the forfeiture order and not for a vehicle related offence to which the impounding order under section 59LR relates.'.	13 14 15 16
Clause	21		endment of s 59LU (Consideration of application for feiture order)	17 18
			Section 59LU(2)—	19
			omit, insert—	20
		'(2)	If—	21
			(a) under subsection (1), the relevant court orders the impounding of the motorbike to which the application relates; and	22 23 24
			 (b) a relevant court has previously made an impounding order under section 59LT for a motorbike noise order offence committed within the relevant period and forming the basis of the application; 	25 26 27 28
			the motorbike is impounded under subsection (1) for the motorbike noise order offence giving rise to the application for the forfeiture order and not for the motorbike noise order offence to which the impounding order under section 59LT relates.'.	29 30 31 32 33

Clause	22	Amendment of s 59O (Powers for enforcing court order)	1
		(1) Section 59O(2), 'seize'—	2
		omit, insert—	3
		'impound, or if the motor vehicle is forfeited to the State, take possession of,'.	4 5
		(2) Section 590—	6
		insert—	7
		(3) If the impounding order or forfeiture order authorises a police officer to enter a place for giving effect to the order as mentioned in subsection (2), power to enter the place includes, and is taken always to have included, power to re-enter the place as often as is reasonably necessary for the purpose.'.	8 9 10 11 12 13
Clause	23	Amendment of s 59Q (Release of motor vehicle impounded under section 59F)	14 15
		(1) Section 59Q, heading, 'section 59F'—	16
		omit, insert—	17
		's 59F '.	18
		(2) Section 59Q(3), after 'business hours'—	19
		insert—	20
		'on a business day'.	21
		(3) Section 59Q(4), definition <i>business hours</i> , 'on any day'—	22
		omit.	23
Clause	24	Amendment of s 59ZI (Power for regulating traffic)	24
		(1) Section 59ZI, heading, 'traffic'—	25
		omit, insert—	26
		'animal traffic'.	27
		(2) Section 59ZI(1), ', signal or order'—	28
		omit.	29

	(3)	Section 59ZI(1), 'traffic'—	1			
		omit, insert—	2			
		'animal traffic'.	3			
	(4)	Section 59ZI(2)—	4			
		omit, insert—	5			
	'(2)	Without limiting subsection (1), a police officer may act under that subsection if the police officer reasonably suspects an emergency exists or it is otherwise necessary to temporarily prohibit, divert or direct animal traffic and pedestrians.'.	6 7 8 9			
	(5)	Section 59ZI(3), ', signal or order'—	10			
		omit.	11			
Clause	25 Ins	sertion of new ch 2D, pt 3	12			
		Chapter 2D, after section 59ZI—	13			
		insert—	14			
	'Part 3	Stopping animals for prescribed purposes	15 16			
			17			
	'59ZJ Sto	opping animals for prescribed purposes	17			
	'59ZJ Sto '(1)	A police officer may require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop the animal for a prescribed purpose.	17 18 19 20			
		A police officer may require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop	18 19			
	'(1)	A police officer may require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop the animal for a prescribed purpose. The person must comply with the requirement, unless the	18 19 20 21			
	'(1)	A police officer may require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop the animal for a prescribed purpose. The person must comply with the requirement, unless the person has a reasonable excuse. Maximum penalty—60 penalty units.	18 19 20 21 22			
	'(1) '(2)	A police officer may require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop the animal for a prescribed purpose. The person must comply with the requirement, unless the person has a reasonable excuse. Maximum penalty—60 penalty units.	18 19 20 21 22 23			
	'(1) '(2)	A police officer may require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop the animal for a prescribed purpose. The person must comply with the requirement, unless the person has a reasonable excuse. Maximum penalty—60 penalty units. The prescribed purposes are as follows—	18 19 20 21 22 23 24			
	'(1) '(2)	 A police officer may require the person in control of an animal, whether or not the animal is pulling a vehicle, to stop the animal for a prescribed purpose. The person must comply with the requirement, unless the person has a reasonable excuse. Maximum penalty—60 penalty units. The prescribed purposes are as follows— (a) for enforcing a transport Act; (b) to check whether the vehicle the animal is pulling or the person in control of the animal is complying with a 	18 19 20 21 22 23 24 25 26 27			

(d)	for enforcing a contravention of law involving putting, dropping and leaving litter on a public place.	1 2					
For monitoring or enforcing a liquor provision, the police officer may exercise any of the following powers if the police officer reasonably suspects the exercise of the power may be effective for the purpose—							
(a)) if the animal is pulling a vehicle—enter the vehicle and remain in it for the time reasonably necessary for the purpose;						
(b)	search anything on the animal or in the vehicle;						
(c)	photograph or film—	11					
	(i) the animal and anything on the animal; and	12					
	(ii) if the animal is pulling a vehicle, the vehicle or anything in it;	13 14					
(d)	if the animal is pulling a vehicle, inspect, measure or test the vehicle or anything in it;						
(e)	take samples of anything on the animal or in the vehicle;						
(f)	seize anything the officer reasonably suspects is evidence of the commission of an offence against a liquor provision;						
(g)	copy a document in something on the animal or in the vehicle;						
(h)	move the vehicle's load.	23					
In this section—							
<i>in</i> , for a vehicle, includes on the vehicle.							
<i>liquor provision</i> means any of the following provisions— 2							
(a) the <i>Liquor Act 1992</i> , section 168B, 169 or $171;^{10}$							
	For offic of	 dropping and leaving litter on a public place. For monitoring or enforcing a liquor provision, the police officer may exercise any of the following powers if the police officer reasonably suspects the exercise of the power may be effective for the purpose— (a) if the animal is pulling a vehicle—enter the vehicle and remain in it for the time reasonably necessary for the purpose; (b) search anything on the animal or in the vehicle; (c) photograph or film— (i) the animal and anything on the animal; and (ii) if the animal is pulling a vehicle, the vehicle or anything in it; (d) if the animal is pulling a vehicle, inspect, measure or test the vehicle or anything in it; (e) take samples of anything on the animal or in the vehicle; (f) seize anything the officer reasonably suspects is evidence of the commission of an offence against a liquor provision; (g) copy a document in something on the animal or in the vehicle; (h) move the vehicle's load. In this section— <i>in</i>, for a vehicle, includes on the vehicle. 					

¹⁰ *Liquor Act 1992*, section 168B (Prohibition on possession of liquor in restricted area), 169 (Authority required for sale) or 171 (Carrying or exposing liquor for sale)

	(b)	the Aboriginal Communities (Justice and Land Matters) Act 1984, section 35 or 45; ¹¹	1 2					
	(c)	the <i>Community Services (Torres Strait) Act 1984</i> , section 101 or 110A. ¹²	3 4					
		<i>titor</i> , a liquor provision, means check whether the vision is being complied with.	5 6					
	ver te vers	o enable effective and safe exercise of other	7 8					
' (1)	pulli the	A police officer may require the person in control of an animal9pulling a vehicle to give the officer reasonable help to enable10the officer to effectively exercise a power under this part in11relation to the animal or vehicle.12						
'(2)	Also, a police officer may require the person in control of an animal pulling a vehicle, or a person who is on or has just left the animal or is in or on or has just left the vehicle, to do or not to do anything the police officer reasonably believes is necessary—							
	(a)	to enable the police officer to safely exercise a power under a transport Act in relation to the animal or vehicle; or	18 19 20					
	(b)	to preserve the safety of the police officer, the person or other persons.	21 22					
' (3)	A person must comply with a requirement under subsection (1) or (2), unless the person has a reasonable excuse.							
	Max	imum penalty for subsection (3)—60 penalty units.'.	25					

'59ZK

¹¹ Aboriginal Communities (Justice and Land Matters) Act 1984, section 35 (Possession or consumption of alcohol in or on dry place) or 45 (Offences relating to homemade alcohol)

¹² *Community Services (Torres Strait) Act 1984*, section 101 (Possession or consumption of alcohol in or on dry place) or 110A (Offences relating to homemade alcohol)

Clause	26		nendm cumer	ent of s 71 (Order in search warrant about hts)	1 2
			Section	on 71, after 'magistrate'—	3
			insert	<u>; </u>	4
			'or a	judge'.	5
Clause	27	Ins	ertion	of new s 71A	6
			After	section 71—	7
			inseri	<u>;</u>	8
	'71 A			search warrant about information necessary s information stored electronically	9 10
		' (1)	searc inform	e issuer is a magistrate or a judge, the issuer may, in a h warrant order the person in possession of access mation for a storage device in the person's possession or ich the person has access at the place—	11 12 13 14
			(a)	to give a police officer access to the storage device and the access information necessary for the police officer to be able to use the storage device to gain access to stored information that is accessible only by using the access information; and	15 16 17 18 19
			(b)	to allow a police officer given access to a storage device to do any of the following in relation to stored information stored on or accessible only by using the storage device—	20 21 22 23
				(i) use the access information to gain access to the stored information;	24 25
				 (ii) examine the stored information to find out whether it may be evidence of the commission of an offence; 	26 27 28
				 (iii) make a copy of any stored information that may be evidence of the commission of an offence, including by using another storage device. 	29 30 31
		'(2)	In thi	s section—	32

		<i>access information</i> means information of any kind that it is necessary for a person to use to be able to access and read information stored electronically on a storage device.	1 2 3
		<i>storage device</i> means a device of any kind on which information may be stored electronically.	4 5
		stored information means information stored on a storage device.'.	6 7
Clause	28	Amendment of s 73 (What search warrant must state)	8
		(1) Section $73(1)(a)$ —	9
		omit, insert—	10
		(a) a police officer may exercise search warrant powers under the warrant; and'.	11 12
		(2) Section 73(3), from 'a magistrate' to 'section 71'—	13
		omit, insert—	14
		'a magistrate or a judge makes an order under section 71 or 71A'.	15 16
Clause	29	Amendment of s 74 (Powers under search warrant)	17
		(1) Section 74(1), 'has the following powers'—	18
		omit, insert—	19
		'may lawfully exercise the following powers'.	20
		(2) Section 74(1)(j), after 'relates'—	21
		insert—	22
		', whether or not the thing is seized under the warrant'.	23
Clause	30	Amendment of s 108 (What production order must state)	24
		(1) Section 108(2)—	25
		renumber as section 108(3).	26
		(2) Section 108—	27
		insert—	28

		' (2)	Power to enter a place under a production order includes, and is taken always to have included, power to re-enter the place as often as is reasonably necessary for enforcing the order.'.	1 2 3
Clause	31	Arr sta	nendment of s 127 (What covert search warrant must ite)	4 5
			Section 127—	6
			insert—	7
			'(g) a report in relation to the warrant must be made under section 131 and to whom the report must be made.'.	8 9
Clause	e 32 Replacement of s 131 (Report on covert search)			10
			Section 131—	11
			omit, insert—	12
	'1 31	Re	port on covert search	13
		' (1)	A police officer to whom a covert search warrant is issued, or who is primarily responsible for executing a covert search warrant, must make a report as required under this section.	14 15 16
		'(2)	The report must be made to the Supreme Court judge who issued the warrant or to the public interest monitor as stated in the warrant.	17 18 19
		' (3)	The report must be made within 7 days after the warrant is executed.	20 21
		'(4)	If a report is given to the public interest monitor, the monitor may refer the report to a Supreme Court judge for the purpose of an order being made under subsection (5).	22 23 24
		' (5)	If—	25
			(a) the report is made to a Supreme Court judge; or	26
			(b) the public interest monitor refers the report to a Supreme Court judge;	27 28
			the police officer must, if practicable, also take before the judge anything seized under the warrant and any photograph taken during the search.	29 30 31

		'(6)	On receiving a report, the judge may order that any thing seized under the warrant and any photograph taken during the search—	1 2 3
			(a) be held by a police officer until any proceeding in which the thing may be evidence ends; or	4 5
			(b) be dealt with in the way the judge orders.'.	6
Clause	33	Am	nendment of s 132 (Object of ch 5)	7
		(1)	Section 132, 'offences'—	8
			omit, insert—	9
			'serious indictable offences'.	10
		(2)	Section 132, 'serious indictable offences'—	11
			omit, insert—	12
			'controlled activity offences'.	13
		(3)	Section 132—	14
			insert—	15
		' (2)	In this chapter—	16
			controlled activity offence means—	17
			(a) a seven year imprisonment offence; or	18
			(b) an indictable offence mentioned in schedule 2; ¹³ or	19
			(c) an indictable or simple offence mentioned in schedule 3B. ¹⁴ '.	20 21
Clause	34	Am	nendment of s 135 (Authorised controlled activities)	22
		(1)	Section 135(1)(a), from 'an offence'—	23
			omit, insert—	24
			'a serious indictable offence against a person; and'.	25

¹³ Schedule 2 (Relevant offences for controlled operations and surveillance device warrants)

¹⁴ Schedule 3B (Additional controlled activity offences)

	(2)	Section 135(1)(a), 'a serious indictable offence'—	1
		omit, insert—	2
		'a controlled activity offence'.	3
	(3)	Section 135(1)(b)(i)—	4
		omit, insert—	5
		(i) 1 or more meetings between the police officer and a person, whether or not the meetings were the result of a written or oral communication with the person;'.	6 7 8 9
	(4)	Section 135(2), after 'inspector'—	10
		insert—	11
		(a senior police officer)'.	12
	(5)	Section 135(4) and (5)—	13
		renumber as section 132(6) and (7).	14
	(6)	Section 135—	15
		insert—	16
	'(4)	However, the senior police officer may authorise a police officer to engage in a controlled activity only if, having regard to the nature or extent of the relevant controlled activity offence, authorising a controlled activity is appropriate in the particular circumstances.	17 18 19 20 21
	' (5)	The authority must be written and state—	22
		(a) the controlled activity the police officer is authorised to engage in; and	23 24
		(b) the period, of not more than 7 days, for which the authority is in force.'.	25 26
Clause 35		nendment of s 141 (Relationship to other laws and tters)	27 28
		Section 141—	29
		insert—	30

			Police Powers and Responsibilities and Other Acts Amendment Bill 2006	
		' (8)	In this section—	1
			<i>function</i> includes power.'.	2
Clause	36		endment of s 197ZK (Relationship to other laws and tters)	3 4
			Section 197ZK—	5
			insert—	6
		' (9)	In this section—	7
			insert—	8
			<i>function</i> includes power.'.	9
Clause	37	Am	endment of s 199 (Arrest of escapees etc.)	10
			Section 199(2)—	11
			omit, insert—	12
		'(2)	Also, it is lawful for a police officer to arrest, without warrant, a prisoner who is unlawfully at large within the meaning of the <i>Corrective Services Act 2006</i> , section 112. ¹⁵	13 14 15
		'(3)	Also, a police officer has the same powers as a corrective services officer has under a warrant under the <i>Corrective Services Act 2006</i> , section 112.'.	16 17 18
Clause	38	Am	endment of s 203 (Arrest warrant application)	19
		(1)	Section 203(2) and (3)—	20
			renumber as section 203(3) and (5).	21
		(2)	Section 203—	22
			insert—	23
		'(2)	The police officer may apply for the warrant whether or not a proceeding has been started against the person by complaint and summons or notice to appear.'.	24 25 26

Corrective Services Act 2006, section 112 (Arresting prisoner unlawfully at large)

		(3)	Section 203—	1
			insert—	2
		'(4)	If the application—	3
			(a) relates to an offence other than an indictable offence; and	4 5
			 (b) is made because the applicant reasonably believes proceeding or continuing to proceed against the person named in the application by complaint and summons or notice to appear would be ineffective; 	6 7 8 9
			the application must state the belief and the reasons for the belief.'.	10 11
Clause	39	Am	endment of s 204 (Issue of arrest warrant)	12
			After section 204(b), after 'ineffective'—	13
			insert—	14
			', including because the person can not currently be located or served with a complaint and summons or notice to appear for the offence'.	15 16 17
Clause	40	Ins	ertion of new s 205A	18
			Chapter 6, part 2, after section 205—	19
			insert—	20
	'205A	Co	mpliance with limitation of proceedings	21
		' (1)	This section applies to an arrest warrant issued under section 204(b).	22 23
		'(2)	For the <i>Justices Act 1886</i> , section 52 ¹⁶ or another provision of an Act that imposes a limitation of proceedings for the offence by reference to when a complaint was made for the offence or to when proceedings for the offence are started, a complaint is taken to be made, and the proceedings started, when the warrant is issued.'.	24 25 26 27 28 29

¹⁶ Justices Act 1886, section 52 (Limitation of proceedings)

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Clause	41	Ins	ertion of new s 207A	1
Clause	••	me	Chapter 6, part 4, before section 208—	2
			insert—	3
	·207A	E ff,	ect of release under pt 4	
	207A	Elle	-	4 6 7
			'If an arrested person is released under this part, any charge of an offence for which the arrested person is released is discontinued.'.	
Clause	42		endment of s 211 (Additional case when arrest for or drugs offence may be discontinued)	8 9
		(1)	Section 211(1)(c), (d) and (e)—	10
			<i>renumber</i> as section 211(1)(d), (e) and (f).	11
		(2)	Section 211(1)—	12
			insert—	13
			(c) the person has not previously been sentenced to serve a term of imprisonment for an offence against the <i>Drugs Misuse Act 1986</i> , section 5, 6 or 8; ¹⁷ and	
		(3)	Section 211(4), (5) and (6)—	17
			omit, insert—	18
		'(4)	A police officer may make the offer at any time before the person appears before a court to answer a charge of the minor drugs offence.	
		'(5)	When making the offer, the police officer must give—	22
			(a) the person; and	23
			(b) if a support person is present when the offer is made, the support person;	e 24 25
			an oral or written explanation of the consequences of agreeing to attend a drug diversion assessment program.	g 26 27
		'(6)	If the person agrees, the person must sign an agreement to attend and complete a drug diversion assessment program.	o 28 29

¹⁷ *Drugs Misuse Act 1986*, section 5 (Trafficking in dangerous drugs), 6 (Supplying dangerous drugs) or 8 (Producing dangerous drugs)

		'(7)	The agreement must include a provision authorising the provider of the drug diversion assessment program to disclose to the commissioner information about—	1 2 3
			(a) the person's attendance at, and completion of, the program; or	4 5
			(b) if the person failed to attend or complete the program—the person's failure to attend or complete the program.	6 7 8
		' (8)	The police officer must—	9
			(a) give the person a written requirement to attend and complete a drug diversion assessment program in accordance with the agreement; and	10 11 12
			(b) inform the person that failure to comply with the requirement is an offence against section 445. ¹⁸	13 14
		' (9)	Also, the police officer must give the chief executive (health), or a person or organisation nominated by that chief executive for this section, a copy of the agreement.	15 16 17
		' (10)	On the signing of the agreement, the drug, and anything that may be, or has been, used for smoking the drug, is forfeited to the State.	18 19 20
		'(11)	It is the duty of a police officer to release an arrested person at the earliest reasonable opportunity if the police officer is satisfied subsections (6) and (8) have been complied with.'.	21 22 23
Clause	43		endment of s 214 (Notice to appear may be issued for ence)	24 25
		(1)	Section 214(4)—	26
			renumber as section 214(5).	27
		(2)	Section 214—	28
			insert—	29
		' (4)	However, a notice to appear for an offence against the Road Use Management Act may be served on a person by registered	30 31

			post if it is served as provided for in the <i>Justices Act 1886</i> , section 56(2)(a) or (b). ¹⁹	1 2
			Note—	3
			The <i>Justice Act 1886</i> , section 56(2)(a) and (b) authorises service in some cases at an address stated in a driver licence or a current certificate of registration for a motor vehicle.'.	4 5 6
Clause	44		nendment of s 219 (Notice to appear equivalent to a mplaint and summons)	7 8
		(1)	Section 219(3)—	9
			omit, insert—	10
		' (3)	If a prescribed police officer issues and serves a notice to appear on a person under section $225(2)(b)$, the police officer who arrested the person, and not the prescribed police officer, is taken to have started the proceeding against the person.'.	11 12 13 14
		(2)	Section 219—	15
			insert—	16
		' (5)	In this section—	17
			<i>prescribed police officer</i> means a prescribed police officer under the <i>Bail Act 1980</i> , section 7.'.	18 19
Clause	45		nendment of s 220 (Court may order immediate arrest person who fails to appear)	20 21
		(1)	Section 220(6)—	22
			renumber as section 220(7).	23
		(2)	Section 220(2)—	24
			omit, insert—	25
		'(2)	A document purporting to be a copy of the notice to appear signed by the police officer who served it, and stating the following is evidence of what it states—	26 27 28
			(a) if the notice to appear was served personally—	29

				(i)	the date it is served; and	1
				(ii)	when and where it was served;	2
			(b)		e notice to appear is served by registered post under ion 214(4)—	3 4
				(i)	the notice to appear was posted to the address stated in the notice by registered post; and	5 6
				(ii)	when and where the notice to appear was posted; and	7 8
				(iii)	the registered post identification number for the envelope containing the notice to appear.'.	9 10
		(3)	Sect	ion 22	20—	11
			inse	rt—		12
		'(6)	subs	ection	who is arrested under a warrant issued under $(1)(b)$ is taken, for section 225, to have been or the offence stated in the notice to appear.'.	13 14 15
Clause	46		nendr a. of p		of s 224 (Duty of police officer after arrest n)	16 17
			Sect	ion 22	24(2)—	18
			inse	rt—		19
			'(f)	und	rrested under section 198(2) and is later released er section 208 without having been charged with the nce for which the person was arrested.'.	20 21 22
Clause	47	Am	nendr	nent	of s 229 (Application of pt 2)	23
		(1)	Sect	ion 22	29(a)—	24
			omit	, inse	rt—	25
			'(a)	if t ques	wfully arrested for an indictable offence, including the person is arrested under section 198(2) for stioning the person about the offence or investigating offence.'.	26 27 28 29
		(2)	Sect	ion 22	29(b), 'an offence'—	30
			omit	, inse	rt—	31

		'a cł	harge of an offence'.	1
	(3)	Sect	tion 229, example, 'Example'—	2
		omit	t, insert—	3
		'Exa	mples'.	4
48	Am	endr	ment of s 318ZZB (Evidentiary provision)	5
	(1)	Sect	tion 318ZZB(1)—	6
		omit	t, insert—	7
	' (1)		ertificate signed by the commissioner and stating any of following is evidence of what it states—	8 9
		(a)	on a stated day and at a stated time a stated police officer authorised the performance of a stated forensic procedure on a stated person;	10 11 12
		(b)	on a stated day and at a stated time a stated police officer or a stated watch-house officer used a stated device to generate a digital image of a fingerprint, footprint or palm print from a stated person;	13 14 15 16
		(c)	a stated police officer was on a stated day an authorised examiner;	17 18
		(d)	a stated person was on a stated day a DNA sampler;	19
		(e)	how a stated thing taken from a stated person as the result of the performance of a stated forensic procedure was handled and stored;	20 21 22
		(f)	a stated person took or sent a stated thing taken as the result of the performance of a forensic procedure from a stated place to another stated place;	23 24 25
		(g)	a stated person received a stated thing taken as the result of the performance of a forensic procedure at a stated place;	26 27 28
		(h)	a certificate given under the <i>Evidence Act 1977</i> , section 95A ²⁰ relates to a stated DNA sample taken from a stated person.	29 30 31

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Clause

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			Note for subsection (1)(b)—	1
			See section 397J for the power of a watch-house officer to take a person's identifying particulars.'.	2 3
	(2)	Section 318ZZB(2), '10 business days—	4
			omit, insert—	5
			'20 business days'.	6
	(3)	Section 318ZZB(3), '3 business days'—	7
			omit, insert—	8
			'15 business days'.	9
Clause	49	Ame	endment of s 371AB (Powers for reportable deaths)	10
	(1)	Section 371AB(4), after 'The officer may'—	11
			omit, insert—	12
			'search for and'.	13
	(2)	Section 371AB(5) and (6)—	14
			renumber as section 371AB(6) and (7).	15
	(3)	Section 371AB—	16
			insert—	17
	"(However, a police officer may not search the place under subsection (4) if the police officer reasonably believes the death was from natural causes.'.	18 19 20
Clause	50	Inse	rtion of new ch 9, pt 5, div 1 hdg	21
			Chapter 9, part 5, before section 371A—	22
			insert—	23
	'Divisi	on	1 Potentially harmful things'.	24
Clause	51	Inse	rtion of new ch 9, pt 5, div 2, hdg	25
			Chapter 9, part 5, before section 372—	26

			insert—	1
	'Div	ision	Other miscellaneous powers'.	2
Clause	52		nendment of s 372A (Police actions after domestic elence order is made)	3 4
		(1)	Section 372A(4), 'subsection (3)(a)'—	5
			omit, insert—	6
			'subsection (4)(a)'.	7
		(2)	Section 372A(4) and (5)—	8
			renumber as section 372A(5) and (6).	9
		(3)	Section 372A(2) and (3)—	10
			omit, insert—	11
		'(2)	If the respondent was not in court when the court made the domestic violence order, the clerk of the court must give the order to a member of the police service at the police station nearest the place where the respondent lives.	12 13 14 15
		' (3)	The officer in charge of the police station must ensure a police officer gives the order to the respondent as soon as practicable.	16 17 18
		'(4)	The police officer who gives the order to the respondent must-	19 20
			 (a) if the order is given to the respondent at the respondent's place of residence—take all steps necessary to ensure the respondent's weapons licence and weapon are seized immediately; and 	21 22 23 24
			(b) in any other case—make arrangements to ensure the respondent's weapons licence and weapon are surrendered to a police officer as soon as practicable.'.	25 26 27
Clause	53	Am	nendment of s 373 (Assistance in exercising powers)	28
		(1)	Section 373(5) and (6), as inserted by the <i>Cross-Border Law</i> Enforcement Legislation Amendment Act 2005, section 13—	29 30
			renumber as section 373(7) and (8).	31

		(2)	Section 373—	1
			insert—	2
		'(5)	Also, if the stated action is to help the police officer search the place, the assistant may search the place to the extent authorised by the police officer whether or not a police officer is present while the assistant is searching the place.	3 4 5 6
		'(6)	However, the assistant may not help search a dwelling unless a police officer is present while the assistant helps in the search.'.	7 8 9
Clause	54	Ins	ertion of new ss 377B–377C	10
			Chapter 9, part 5, after section 377A—	11
			insert—	12
	'377B	Ροι	wer to examine seized things	13
			'To remove doubt, it is declared that a power to seize a thing under this Act includes and always has included—	14 15
			(a) power to examine the thing; and	16
			(b) power to arrange for someone else to examine the thing.	17
	'377C	Ext	ent of power to examine seized things	18
			'Without limiting section 377B, power to examine a thing seized under this Act includes, and always has included, a power to do something that is reasonably necessary for, or as part of, a scientific or other investigative procedure involving the thing, even though doing the thing may damage the thing or destroy it.	19 20 21 22 23 24
			Examples—	25
			• performing an analysis involving the thing	26
			• making an appraisal of the thing	27
			• inspecting the thing	28
			• perusing the thing	29
			• scanning the thing	30
			• sifting the thing'.	31

Clause	55	Re	place	ment of s 380 (Receipt for seized property)	1
			Sect	ion 380—	2
			omit	r, insert—	3
	'380	Re	ceipt	for seized property	4
		'(1)	the	police officer seizes anything under this Act or a warrant, police officer must, as soon as is reasonably practicable seizing the thing—	5 6 7
			(a)	if the person from whom it is seized is present—give or cause to be given to the person a receipt for the thing; or	8 9
			(b)	if the occupier of the premises is not present—leave a receipt for the thing in a conspicuous place.	10 11
		'(2)	pers inve	vever, if the police officer reasonably suspects giving the on the receipt may frustrate or otherwise hinder the stigation or another investigation, the police officer may y complying with subsection (1), but only for so long as—	12 13 14 15
			(a)	the police officer continues to have the reasonable suspicion; and	16 17
			(b)	that police officer or another police officer involved in the investigation remains in the vicinity of the place to keep it under observation.	18 19 20
		'(3)		receipt may be for a single thing or for all things seized in the person or the place.	21 22
		'(4)		o, the receipt must describe the thing seized and include other information required under the responsibilities code.	23 24
		'(5)		section does not apply if the police officer reasonably eves—	25 26
			(a)	there is no-one apparently in possession of the thing; or	27
			(b)	the thing has been abandoned; or	28
			(c)	the thing has no value other than as evidence of the commission of an offence.	29 30
			Exan	(5)(c)	31
				ood, saliva, semen, hair, impressions, paint, glass, fibres, ballistic ms, fire debris, vehicle identification plates, trace evidence'.	32 33

0	50	۸	and mont of a 207 (Domayol of clothing for accesh)	1
Clause	50	Ап	nendment of s 387 (Removal of clothing for search)	1
			Section 387(1), from 'outer clothing'—	2
			omit, insert—	3
			'outer clothing from the upper or lower part of the body.'.	4
Clause	57		nendment of s 390 (If video cameras monitor place ere person is searched)	5 6
		(1)	Section 390(1), after 'is searched'—	7
			insert—	8
			"(place of search)".	9
		(2)	Section 390(2)—	10
			renumber as section 390(3).	11
		(3)	Section 390—	12
			insert—	13
		'(2)	However, if, for safety or operational reasons, a video camera used to monitor the place of search can not be turned off without turning off a video camera used to monitor another place, the monitor for the video camera for the place of search must, if it is reasonably practicable, be turned off or used to monitor another place while the person is being searched.'.	14 15 16 17 18 19
Clause	58		nendment of s 391 (Safeguards for directions or juirements)	20 21
		(1)	Section 391(1), heading, and subsection (1)—	22
			omit, insert—	23
	' 391	Sat	feguards for oral directions or requirements	24
		'(1)	This section applies if a police officer gives someone an oral direction or makes an oral requirement under this Act.'.	25 26
		(2)	Section 391(3), 'a reasonable'—	27
			omit, insert—	28
			'a further reasonable'.	29

		Police Powers and Responsibilities and Other Acts Amendment Bill 2006				
Clause	59 Insertion of new ch 11, pt 1, div 1, hdg					
		Chapter 11, part 1, before section 396—	2			
		insert—	3			
	'Divisior	n 1 Persons in custody at watch-houses'.	4 5			
Clause		nendment of s 397 (Transfer of persons in tch-houses)	6 7			
	(1)	Section 397(c), (d) and (e)—	8			
		renumber as section 397(d), (e) and (f).	9			
	(2)	Section 397—	10			
		insert—	11			
		(c) to a court cell; or'.	12			
	(3)	Section 397—	13			
		insert—	14			
	' (2)	In this section—	15			
		<i>court cell</i> means a place attached to or near a court that is used for detaining prisoners of the court.	16 17			
		Note—	18			
		For the power to hold persons who are not prisoners of the court in a court cell, see the <i>Corrective Services Act 2006</i> , section 310.'.	19 20			
Clause	61 Ins	sertion of new ch 11, pt 1, div 2	21			
		Chapter 11, part 1, after section 397—	22			
		insert—	23			

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'Division	12	Watch-house officer's functions and powers	1 2
'Subdivi	sion 1	Functions	3
'397A Fui	nctions of	watch-house officers	4
'(1)		house officer has the functions and powers conferred h-house officer by this Act.	5 6
'(2)	commissi watch-ho	on (1) applies subject to any directions of the oner or the watch-house manager for the use and the terms of the person's appointment that stent with any Act applicable to a watch-house	7 8 9 10 11
·(3)	not taken watch-hou	re doubt, it is declared that a watch-house officer is n to be a police officer merely because the use officer has, under this chapter, some of the same and powers as a police officer.	12 13 14 15
'(4)	to do som	division does not limit the powers of a police officer nething a police officer may otherwise do under this ation to a person in custody at a watch-house.	16 17 18
'Subdivi	sion 2	Powers for screening of entrants to watch-houses	19 20
'397B Pov	wer to req	uire reasons for entry to watch-houses	21
	watch-how	h-house officer may require an entrant to a use to state the entrant's reason for being in, or about he watch-house.	22 23 24
'397C Us	e of electr	onic screening devices in watch-houses	25
'(1)	watch-ho	tion applies if the system for the security of a use involves the use of 1 or more of the following escreening devices—	26 27 28

		(a)	a walk-through detector;	1
		(b)	an X-ray machine;	2
		(c)	a hand held scanner.	3
	'(2)		atch-house officer may ask the entrant to do 1 or more of ollowing—	4 5
		(a)	to walk through a walk-through detector;	6
		(b)	to pass the entrant's belongings through an X-ray machine;	7 8
		(c)	to allow the watch-house officer to pass a hand held scanner in close proximity to the entrant;	9 10
		(d)	to allow the watch-house officer to pass a hand held scanner in close proximity to the entrant's belongings.	11 12
'397D		tch-h ment	ouse officer may ask entrant to remove outer	13 14
	' (1)	This	section applies if—	15
		(a)	a watch-house officer reasonably considers it necessary to make a request under subsection (2) in relation to an entrant or the entrant's belongings, whether or not the entrant or belongings have been subjected to electronic screening; and	16 17 18 19 20
		(b)	the watch-house officer tells the entrant the reasons for making the request.	21 22
	'(2)		watch-house officer may ask the person to do 1 or more e following—	23 24
		(a)	allow the watch-house officer to inspect the entrant's belongings;	25 26
		(b)	remove 1 or more outer garments worn by the entrant as stated by the watch-house officer and allow the watch-house officer to inspect the garments;	27 28 29
		(c)	remove all articles from the entrant's clothing and allow the watch-house officer to inspect them;	30 31
		(d)	open an article for inspection and allow the watch-house officer to inspect it;	32 33

	(e) open a vehicle or a part of it for inspection and allow the watch-house officer to inspect it;	1 2
	(f) remove an article from the vehicle as specified by the watch-house officer and allow the watch-house officer to inspect it.	3 4 5
'(3)	A watch-house officer may touch a garment the entrant is wearing only if the watch-house officer is the same sex as the entrant.	6 7 8
' (4)	In this section—	9
	<i>inspect</i> , an article, includes handle the article, open it and examine its contents.	10 11
	ection by watch-house officer to leave tch-house	12 13
	'A watch-house officer may direct an entrant to leave a watch-house immediately, and to take the entrant's belongings out of the watch-house, if the entrant fails—	14 15 16
	(a) to state the person's reasons for being in or about to enter the watch-house; or	17 18
	(b) to allow a watch-house officer to exercise a power under section 397C or 397D.	19 20
'397F Sei	zure of proscribed things	21
	'A watch-house officer may seize a proscribed thing found in the possession of a person in a watch-house, unless the person is lawfully in possession of it in the course of the person's trade, business or calling.	22 23 24 25
'397G Re	iusal of entry to and removal from watch-house	26
'(1)	This section applies if a person fails to comply with a request made or a direction given under this subdivision or fails to satisfy a watch-house officer that the person has a good and lawful reason to be in a particular watch-house.	27 28 29 30

'(2)	If the person is in the watch-house, the watch-house officer may remove the person from the watch-house.	1 2
'(3)	If the person is about to enter the watch-house, the watch-house officer may prevent the person from entering the watch-house.	3 4 5
'Subdivi	sion 3 Powers relating to persons in custody in or reporting to watch-house	6 7 8
	ntch-house officer may require person to state me and address	9 10
'(1)	Section 32, to the extent it applies to prescribed circumstances mentioned in section 33 that are circumstances in which a police officer may exercise a power under this Act in relation to a person at a watch-house applies to a watch-house officer in the same way as it applies to a police officer. ²¹	11 12 13 14 15
' (2)	For section 32, a reference in section 33 to a police officer includes a reference to a watch-house officer.	16 17
	itch-house officer may search person in custody watch-house	18 19
' (1)	A watch-house officer may search and re-search a person to whom chapter 8 applies if the person is in custody at a watch-house.	20 21 22
'(2)	A watch-house officer may seize from the person anything found during the search that the watch-house officer reasonably suspects may provide evidence of the commission of an offence.	23 24 25 26
·(3)	Also, the watch-house officer may take and retain, while the person is in custody—	27 28

²¹ Section 32 (Person may be required to state name and address), section 33 (Prescribed circumstances for requiring name and address)

		(a)	anything that may endanger anyone's safety, including the person's safety; or	1 2
		(b)	anything that may be used for an escape; or	3
		(c)	anything else the watch-house officer reasonably considers should be kept in safe custody while the person is in custody.	4 5 6
'397J			ouse officer may take identifying particulars on at watch-house	7 8
	'(1)	take follo watc	rovision of chapter 8A that authorises a police officer to the identifying particulars of a person, generally or in the wing circumstances, is taken also to authorise a th-house officer to take the identifying particulars of a on in those circumstances—	9 10 11 12 13
		(a)	the person is in custody at a watch-house;	14
		(b)	the person reports to the watch-house to enable a police officer to take the person's identifying particulars under an identifying particulars notice or an order of a court.	15 16 17
	'(2)		provision applies to the watch-house officer in the same as it applies to a police officer.	18 19
	' (3)		, the watch-house officer is taken to be a qualified person hapter 8A for taking identifying particulars.	20 21
	'(4)	takin	rovision of this Act that applies to a police officer who is ing the identifying particulars of a person applies to a h-house officer in the same way as it applies to a police er.	22 23 24 25
'397K			sioner may authorise watch-house officer to A samples of person at watch-house	26 27
	' (1)		section applies to a watch-house officer only if the missioner is satisfied the watch-house officer—	28 29
		(a)	has the necessary experience or expertise to be able to take DNA samples; or	30 31
		(b)	has satisfactorily completed a course of training approved by the commissioner for the purpose.	32 33

'(2)	The commissioner may authorise the watch-house officer to take DNA samples from—	1 2
	(a) a person in custody at a watch-house; or	3
	(b) a person who reports to the watch-house to enable a police officer to take the person's identifying particulars under an identifying particulars notice or an order of a court.	4 5 6 7
'(3)	Also, sections 318ZH and 318ZI apply to the watch-house officer while performing the functions of a qualified person for taking a DNA sample.	8 9 10
'397L Po	wer to use force against individual at watch-house	11
'(1)	It is lawful for a watch-house officer exercising or attempting to exercise a power under this Act against a person at a watch-house to use reasonably necessary force to exercise the power.	12 13 14 15
'(2)	Also, it is lawful for a watch-house officer to use reasonably necessary force to prevent a person in custody at a watch-house from escaping from lawful custody.	16 17 18
'(3)	The force a watch-house officer may use under this section does not include force likely to cause grievous bodily harm to a person or the person's death.	19 20 21
	wer to use force—transfer etc. of person in stody to or from court cell or other place	22 23
'(1)	It is lawful for a watch-house officer who is authorised by a watch-house manager to transfer a person in custody to a court cell to use reasonably necessary force—	24 25 26
	(a) to transfer a person in custody from the watch-house to a court cell; or	27 28
	(b) to transfer a person in custody from a court cell to a watch-house; or	29 30
	(c) to ensure a person in custody in a court cell appears before a court and is returned to the court cell if the person is not otherwise released; or	31 32 33

	(d)	to ensure a person in custody does not escape from lawful custody while the person is being transferred to or held in the court cell, while in court, or while being returned to the watch-house.	1 2 3 4			
'(2)	by a	Also, it is lawful for a watch-house officer who is authorised by a watch-house manager for the purpose to escort a person in custody to use reasonably necessary force—				
	(a)	to escort a person in custody to a place other than a watch-house to enable the person to receive medical, dental, optical or other health related treatment; and	8 9 10			
	(b)	to escort a person in custody from a place where the person is taken to receive medical, dental, optical or other health related treatment to the watch-house; and	11 12 13			
	(c)	to ensure a person in custody does not escape from lawful custody while the person is being escorted to or from the watch-house and while the person is receiving any necessary treatment at the place to which the person is taken under escort.				
' (3)		force a watch-house officer may exercise under this ion—	19 20			
	(a)	includes force that is reasonably necessary—	21			
		(i) to prevent someone else from helping the person in custody escape from lawful custody; and	22 23			
		 (ii) to prevent someone the watch-house officer reasonably considers should not be given access to the person in custody from gaining access to the person in custody; and 	24 25 26 27			
	(b)	does not include force likely to cause grievous bodily harm to a person or the person's death.	28 29			

'Subdivision 4 Provisions about exercise of particular powers

'397N Search of persons

s 61

'The provisions of this Act applying to a search by a police
officer of a person in custody, including the power to seize
anything found during the search, apply, with necessary
changes, to the search by a watch-house officer of a person in
custody at a watch-house in the exercise of a power under this
part.

	part.
'3970 Pro	perty seized during search etc.
'(1)	This section applies in relation to property seized by a watch-house officer at a watch-house, whether under section 397F or because of a search of a person in custody (<i>seized property</i>).
'(2)	The provisions of this Act stating the responsibilities of a police officer in relation to seized property apply, with necessary changes, to the watch-house officer who seized the property.
'397P Giv	ing directions and making requirements
'(1)	This section applies if a watch-house officer who is exercising a power of a police officer because of this part in relation to an entrant to a watch-house or a person in custody at a watch-house—
	(a) gives the person a direction; or
	(b) make a requirement of the person.
'(2)	The person must comply with the direction or requirement, unless the person has a reasonable excuse.
	Maximum penalty—40 penalty units.
'(3)	Section 391 applies to the giving of a direction or the making of the requirement in the same way as it applies to a police

s 61

1

2

3

officer when giving an oral direction or making an oral 1 requirement. 2 '397Q Making entries in registers 3 **(**1**)** This section applies if— 4 a watch-house officer does something under this part; (a) 5 and 6 7 (b) the act were done by a police officer, the act would be an enforcement act that the police officer would have to 8 enter in the register of enforcement acts under part 2. 9 ·(2) The watch-house officer must make the entry. 10 '397R Responsibilities code 11 'If a provision of the responsibilities code applies to a police 12 officer in relation to a function or power also conferred on a 13 watch-house officer under this part, the provision also applies, 14 with necessary changes, to the watch-house officer in relation 15 to the function or power. 16 '397S Custody continues while person in custody is being 17 transferred or escorted by watch-house officer 18 'To remove doubt, it is declared that a person in the custody of 19 a watch-house manager at a watch-house does not stop being 20 in custody of the watch-house manager only because-21 22 (a) the person is being transferred by a watch-house officer to or from a court cell; or 23 the person is being escorted by a watch-house officer to (b) 24 or from a place other than a watch-house including, but 25 not limited to, for receiving necessary health care.'. 26 Amendment of s 415 (Persons to be given copy of Clause 62 27 information in register) 28 (1)Section 415(2), after 'about the act'— 29 insert— 30

			'to the extent it describes the actions taken or information directly obtained while doing the enforcement act.'.	1 2
		(2)	Section 415, example, 'Example'—	3
			omit, insert—	4
			'Examples'.	5
		(3)	Section 415, after the example—	6
			insert—	7
			⁶ 2 Information about the name of a complainant or informant or medical information obtained from a person other than the person to whom the enforcement act was done is not information that describes the actions taken by the person doing the enforcement act. ² .	8 9 10 11 12
Clause	63		nendment of s 416 (Restriction on disclosure of certain ormation)	13 14
		(1)	Section 416(4), 'Despite subsection (1)'—	15
			omit, insert—	16
			'However'.	17
		(2)	Section 416(4), from 'chief executive officer', first mention, to 'subsection (2) '—	18 19
			omit, insert—	20
			'chief executive officer under section 415 for information to which this section applies that is the subject of a direction given under subsection (2)'.	21 22 23
Clause	64	Am	nendment of s 420 (Application of pt 3)	24
		(1)	Section 420(2)(b)—	25
			renumber as section 420(2)(c).	26
		(2)	Section 420(2)(a)—	27
			omit, insert—	28

			(a) a vehicle that is impounded under chapter 2B or 11A or seized under section 59Y; ²² or	1 2
			(b) an animal seized under section $60;^{23}$ or'.	3
		(3)	Section 420(3), first appearing, to (5)—	4
			<i>renumber</i> as section 420(3) to (6).	5
Clause	65	Ins	ertion of new ss 422A–422B	6
			Part 3, division 1, after section 422—	7
			insert—	8
	'422A		ticular provision about handling animals in the session of the police service	9 10
		'(1)	This section applies to a relevant thing that is in the possession of the police service if the relevant thing is an animal.	11 12
		'(2)	The police service must handle the animal in an efficient, safe and accountable way including by keeping the animal in a way that has appropriate regard to—	13 14 15
			(a) the animal's welfare and the welfare of other animals in the possession of the police service at the place where the animal is kept; and	16 17 18
			(b) relevant animal husbandry practices.	19
		' (3)	In this section—	20
			<i>animal</i> , includes offspring of an animal, born while the animal is in the possession of the police service.	21 22
	'422B	For	feiture in particular cases	23
			'If this part applies to a thing and the commissioner is satisfied the thing has no value, the thing is forfeited to the State.'.	24 25 26

²² Chapter 2B (Motor vehicle impounding powers for prescribed offences and motorbike noise direction offences) or 11A (Provisions about evading police officers) or section 59Y (Removal of vehicles from roads and other places)

²³ Section 60 (Removal of animals from roads and other places)

Police Powers and Responsibilities and Other Acts Amendment Bill 2006

Clause	66	Rep		ment of ch 11, pt 3, div 2, hdg oter 11, part 3, division 2, heading—	1 2
			-	, insert—	2
	' Div i	ision		Return of relevant things'.	4
Clause	67	Am	endn	nent of s 423 (Return of seized things)	5
		(1)	Sect	ion 423, heading and subsections (1) and (2)—	6
			omit	, insert—	7
	'423	Ret	urn o	of relevant things	8
		'(1)	a rel had poss	ess a justice otherwise orders, a police officer must return evant thing to the owner of the thing or the person who lawful possession of the thing before it came into the ession of the police service if the police officer is fied—	9 10 11 12 13
			(a)	it is not required to be retained; and	14
			(b)	it is lawful for the person to have possession of the thing.	15 16
		'(2)	polic take retai	e thing is evidence of the commission of an offence and a ce officer considers it appropriate, the police officer must the steps reasonably necessary to minimise the need to n the thing as evidence by, as soon as reasonably ticable—	17 18 19 20 21
			(a)	photographing the thing or arranging for it to be photographed; or	22 23
			(b)	arranging for any necessary test or examination of the thing; or	24 25
			(c)	gathering any other available secondary evidence in relation to the thing.'.	26 27
		(2)	Sect	ion 423(3), after 'subsection (1),'	28
			inser	rt	29
			ʻif a	police officer seized the relevant thing,'.	30
		(3)	Sect	ion 423(4), 'to a thing'—	31

			omit, insert—	1
			'to a relevant thing'.	2
		(4)	Section 423(4), after 'it was seized'—	3
			insert—	4
			'or came into the possession of the police service'.	5
Clause	68	Ins	ertion of new s 423A	6
			After section 423—	7
			insert—	8
	'423 A	Ap	plication by owner etc. for return of relevant thing	9
		' (1)	This section applies to a relevant thing—	10
			 (a) that has been in the possession of the police service for at least 30 days and is not the subject of an application under section 424; or 	11 12 13
			(b) that is described in a notice given under section $439(4)$. ²⁴	14
		'(2)	A person who claims to have a legal or equitable interest in the relevant thing may apply in writing to the commissioner for the return of the thing to the person or for the delivery of the thing to someone else named in the application as the person to whom the thing may be delivered (the <i>nominee</i>).	15 16 17 18 19
		'(3)	The commissioner may require the applicant to give to the commissioner the additional information the commissioner considers reasonably necessary to enable the commissioner to properly consider the application.	20 21 22 23
		'(4)	After considering the application and any additional information given to the commissioner under subsection (3), the commissioner may—	24 25 26
			(a) return the thing to the applicant; or	27
			(b) deliver the thing to the nominee as requested by the applicant; or	28 29
			(c) refuse to return the thing.	30

²⁴ Section 439 (Order for forfeiture of relevant things connected with offences)

		' (5)	However, the commissioner may only return a thing under subsection (4) if the commissioner is satisfied—	1 2
			(a) the applicant may lawfully possess the thing; and	3
			(b) it is appropriate that the thing be delivered to the person.	4
		'(6)	If the commissioner proposes to deliver the relevant thing to the applicant's nominee, the commissioner must also be satisfied that the nominee may lawfully possess the thing.'.	5 6 7
Clause	69		placement of s 424 (Application by owner etc. for urn of relevant things)	8 9
			Section 424—	10
			omit, insert—	11
	'424		plication by owner etc. for court order for return of evant thing	12 13
		' (1)	This section applies to a relevant thing—	14
			 (a) that has been in the possession of the police service for 30 days and is not returned under section 423A; or 	15 16
			(b) that is described in a notice given under section 439(4).	17
		'(2)	However, this section does not apply to a relevant thing that is forfeited to the State under an Act.	18 19
		'(3)	A person who claims to have a legal or equitable interest in the relevant thing may apply to a magistrate for an order that the thing be returned to the person or to someone else named in the application as the person to whom the thing may be delivered (the <i>nominee</i>).	20 21 22 23 24
		'(4)	The person must give each of the following a copy of the application and notice of the day, time and place fixed for hearing the application—	25 26 27
			(a) the commissioner;	28
			(b) anyone else the person reasonably believes has a legal or equitable interest in the thing.	29 30
		·(5)	The magistrate may order that the relevant thing be returned to a person on the conditions, if any, the magistrate considers appropriate if satisfied—	31 32 33

			(a)	the person may lawfully possess the thing; and	1
			(b)	it is appropriate that the thing be returned to the person.	2
		' (6)	deliv	e magistrate proposes to order that the relevant thing be vered to the applicant's nominee, the magistrate must also atisfied that the nominee may lawfully possess the thing.	3 4 5
		'(7)	the	magistrate must not order the return of a relevant thing to person or the person's nominee if the magistrate is onably satisfied the thing—	6 7 8
			(a)	may be evidence in a proceeding started in relation to the thing; or	9 10
			(b)	is a thing used in or for manufacturing a dangerous drug; or	11 12
			(c)	may be subject to a forfeiture proceeding, including a forfeiture proceeding relating to an interstate serious offence under the Confiscation Act.'.	13 14 15
Clause	70			nent of s 425 (Application by police officer for ownership dispute)	16 17
Clause	70		ler if		
Clause	70		ler if Sect	ownership dispute)	17 18
Clause	70		ler if Sect <i>omit</i> This	ownership dispute) ion 425(1)—	17
Clause	70	ord	ler if Sect <i>omit</i> This	ownership dispute) ion 425(1)— <i>t, insert</i> — a section applies if there is a dispute about the ownership	17 18 19 20 21 22
Clause	70	ord	ler if Sect omit This of a	ownership dispute) ion 425(1)— <i>t, insert</i> — section applies if there is a dispute about the ownership relevant thing, whether the dispute is between— two or more persons, each of whom claims to be the	17 18 19 20
Clause	70	ord '(1) Am	ler if Sect omit This of a (a) (b)	ownership dispute) ion 425(1)— t, insert— section applies if there is a dispute about the ownership relevant thing, whether the dispute is between— two or more persons, each of whom claims to be the owner of the thing; or a police officer and a person who claims to be the owner	17 18 19 20 21 22 23 24

			omit	, insert—	1
			'(h)	it is returned under section 423, 423A or 424.25'.	2
Clause	72			nent of s 427 (Orders issuer may make in relation d thing)	3 4
		(1)	Sect	ion 427(1), after 'issuer'—	5
			inser	rt	6
			ʻund	er section 426'.	7
		(2)	Sect	ion 427(2), after 'issuer', first mention—	8
			inser	rt	9
			ʻund	er section 426'.	10
		(3)	Sect	ion 427(2), as amended—	11
			renu	<i>mber</i> as section 427(3).	12
		(4)	Sect	ion 427—	13
			inser	rt—	14
		'(2)		, if the seized thing is an animal, the issuer under section may order—	15 16
			(a)	if the issuer is satisfied the animal is breeding stock—that the animal be held by a named person until the end of the proceeding for the charge of an offence in which the animal is evidence; or	17 18 19 20
			(b)	if the issuer is satisfied the animal is not breeding stock and the ownership of the animal can not be decided—that the animal be sold in the way directed by the issuer and the proceeds of the sale, after paying any costs of the sale, be paid to the consolidated fund.'.	21 22 23 24 25
Clause	73	Ins	ertio	n of new ss 427A–427D	26
			Afte	r section 427—	27

²⁵ Section 423 (Return of relevant things), 423A (Application by owner etc. for return of relevant thing) or 424 (Application by owner etc. for court order for return of relevant thing)

	insert—	1
	st recovery for animal held by commissioner der order under s 427	2 3
'(1)	This section applies if, because of an order under section $427(2)$, an animal in the possession of the police service is held by the commissioner until the end of a proceeding for a charge of an offence in which the animal is evidence.	4 5 6 7
'(2)	If the person who appears to be the owner of the animal is known, the commissioner may, by letter of demand, require the person to pay to the commissioner within a stated reasonable time, of at least 28 days, the commissioner's stated reasonable costs of keeping the animal.	8 9 10 11 12
'(3)	The commissioner must not give the person the letter of demand unless the commissioner first gives the person written notice of the commissioner's intention to require the person to pay the costs and a reasonable time, of at least 14 days, to state why the person should not be required to pay the costs.	13 14 15 16 17
'(4)	If—	18
	(a) after considering any representations made by the person, the commissioner gives the person the letter of demand; and	19 20 21
	(b) the person fails to pay the amount stated in the letter of demand within the time stated in the letter of demand;	22 23
	the amount payable becomes a debt payable to the State and may be recovered in a court having jurisdiction for the amount.	24 25 26
' (5)	The letter of demand must inform the person—	27
	(a) of the consequences of failing to reply to the letter of demand; and	28 29
	(b) that the person may appeal against the letter of demand to a Magistrates court.	30 31
' (6)	Nothing in this section stops the owner of an animal voluntarily surrendering ownership of the animal to the State under section 427B.	32 33 34
' (7)	In this section—	35

		<i>nal</i> , includes offspring of an animal, born while the nal is in the possession of the police service.	1 2				
Vol	unta	ry surrender of animal to State	3				
'(1)	A person who is given a letter of demand under section 427A may agree to surrender the animal to which the letter of demand relates to the State.						
' (2)		agreement must be written and witnessed by a person may witness a statutory declaration.	7 8				
' (3)	If th	e State agrees to the surrender of the animal—	9				
	(a)	the animal becomes the property of the State; and	10				
	(b)	the commissioner may sell or dispose of the animal in the way the commissioner considers appropriate.	11 12				
'(4)		e commissioner sells the animal, the proceeds of the sale r paying any costs of the sale must be applied as follows—	13 14				
	(a)	in payment of the commissioner's costs of keeping the animal while in the possession of the police service;	15 16				
	(b)	in payment of any balance to the consolidated fund.	17				
Ар	peal	if letter of demand given under s 427A	18				
'(1)	sect	nin 28 days after being given a letter of demand under ion 427A, a person dissatisfied with the demand may eal to a Magistrates Court against the demand.	19 20 21				
'(2)	lette be r	section (1) applies whether or not the amount stated in the er of demand is more than the maximum amount that may ecovered in a personal action in the civil jurisdiction of a gistrates Court.	22 23 24 25				
' (3)	The	appeal must be started by—	26				
	(a)	filing a written notice of appeal with the Magistrates Court; and	27 28				
	(b)	serving a copy of the notice on the commissioner.	29				

'(4) On the filing of the notice of appeal, section 427A(4) stops 30 having effect. 31

'427B

'427C

	427D De	ciding appeal	1
	' (1)	In deciding the appeal, the Magistrates Court—	2
		(a) is not bound by the rules of evidence; and	3
		(b) must comply with natural justice.	4
	' (2)	The Magistrates Court may—	5
		(a) confirm the commissioner's decision; or	6
		(b) set aside the commissioner's decision; or	7
		(c) set aside the commissioner's decision and substitute another decision the court considers appropriate.	8 9
	'(3)	If the Magistrates Court confirms the commissioner's decision, section 427A(4) has effect in relation to the confirmed decision as if the date for payment of the amount required to be paid under the letter of demand were a date that is 28 days after the date of the Magistrates Court's decision.	10 11 12 13 14
	'(4)	If the Magistrates Court substitutes, for the commissioner's decision, another decision requiring the payment of an amount—	15 16 17
		(a) the amount payable must be paid within 28 days of the decision; and	18 19
		(b) if any part of the amount is not paid, section 427A(4), to the extent it relates to the recovery of an unpaid amount, applies to the amount.'.	20 21 22
Clause	74 Re	placement of ch 11, pt 3, div 3	23
		Chapter 11, part 3, division 3—	24
		omit, insert—	25

'Division 3			Dealing with controlled drugs, dangerous drugs etc.	
'Sub	divisior	n 1	Preliminary	3
'430	Applica	ation	of div 3	4
	ʻTh	is divi	ision applies if—	5
	(a)	a po	blice officer seizes drug matter; or	6
	(b)		g matter otherwise comes into the possession of the ice service.	7 8
'431	Definiti	on fo	r div 3	9
	ʻIn	this di	ivision—	10
	dru	g mat	<i>ter</i> means—	11
	(a)	a co	ontrolled drug under the <i>Health Act 1937</i> ; or	12
	(b)		ontrolled substance under the <i>Drugs Misuse Act</i> 6; or	13 14
	(c)	a da	angerous drug; or	15
	(d)		hing intended for use, or that was used, in the mission of a drug offence.	16 17
'Subdivision 2			General provisions about	18
			destruction of drug matter	19
'432	Destrue	ction	of drug matter soon after it is seized etc.	20
	mo	ve it, o	officer may destroy drug matter where it is found or or arrange for it to be moved, to another place where ely be destroyed if—	21 22 23
	(a)	pra	police officer is satisfied it is not reasonably cticable to take the drug matter to a property point or eep it at a police station; and	24 25 26

 impractical to transport them to a property point for storage and leaving them where they are may lead to the commission of an offence. (2) Also, a police officer may destroy drug matter where it is found, or move it, or arrange for it to be moved to another place where it can safely be destroyed if it may be dangerous to take it, or any part of it, to a property point or to keep it at a police station. (3) Drug matter that is a hypodermic syringe or needle and is disposed of in a way required under the <i>Drugs Misuse Regulation 1987</i> is taken to have been destroyed.²⁶ (4) This section applies even though— (a) a proceeding for an offence in which the drug matter may be relevant has not been started or, if started, has not been decided; and (b) any notice of the proposed destruction of the drug matter that is required to be given under section 433D has not been given. Steps police officer must take before destroying drug matter under s 432 (1) Before destroying drug matter under section 432, a police officer must photograph the drug matter where it is found. (2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer 							
It may be necessary to destroy a large plantation of cannabis sativa plants after taking samples of the plants because it is impractical to transport them to a property point for storage and leaving them where they are may lead to the commission of an offence. 9 (2) Also, a police officer may destroy drug matter where it is found, or move it, or arrange for it to be moved to another place where it can safely be destroyed if it may be dangerous to take it, or any part of it, to a property point or to keep it at a police station. 14 (3) Drug matter that is a hypodermic syringe or needle and is disposed of in a way required under the <i>Drugs Misuse Regulation 1987</i> is taken to have been destroyed. ²⁶ (4) This section applies even though— (a) a proceeding for an offence in which the drug matter may be relevant has not been started or, if started, has not been decided; and (b) any notice of the proposed destruction of the drug matter that is required to be given under section 433D has not been given. 22 (1) Before destroying drug matter under section 432, a police officer must take before destroying drug matter under s 432 (2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer		(b)	drug matter is destroyed there is a risk it may be used in	2			
 sativa plants after taking samples of the plants because it is impractical to transport them to a property point for storage and leaving them where they are may lead to the commission of an offence. (2) Also, a police officer may destroy drug matter where it is found, or move it, or arrange for it to be moved to another place where it can safely be destroyed if it may be dangerous to take it, or any part of it, to a property point or to keep it at a police station. (3) Drug matter that is a hypodermic syringe or needle and is disposed of in a way required under the <i>Drugs Misuse Regulation 1987</i> is taken to have been destroyed.²⁶ (4) This section applies even though— (a) a proceeding for an offence in which the drug matter may be relevant has not been started or, if started, has not been decided; and (b) any notice of the proposed destruction of the drug matter that is required to be given under section 433D has not been given. Steps police officer must take before destroying drug matter under s 432 (1) Before destroying drug matter under section 432, a police officer must photograph the drug matter where it is found. (2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer 			Example for paragraph (a)—	4			
found, or move it, or arrange for it to be moved to another place where it can safely be destroyed if it may be dangerous to take it, or any part of it, to a property point or to keep it at a police station.11 			sativa plants after taking samples of the plants because it is impractical to transport them to a property point for storage and leaving them where they are may lead to the commission of an	6			
 disposed of in a way required under the <i>Drugs Misuse Regulation 1987</i> is taken to have been destroyed.²⁶ '(4) This section applies even though— (a) a proceeding for an offence in which the drug matter may be relevant has not been started or, if started, has not been decided; and (b) any notice of the proposed destruction of the drug matter that is required to be given under section 433D has not been given. Steps police officer must take before destroying drug matter under s 432 '(1) Before destroying drug matter under section 432, a police officer must photograph the drug matter where it is found. '(2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer 30 	'(2)	foun plac to ta	id, or move it, or arrange for it to be moved to another e where it can safely be destroyed if it may be dangerous ke it, or any part of it, to a property point or to keep it at a	10 11 12 13 14			
 (a) a proceeding for an offence in which the drug matter may be relevant has not been started or, if started, has not been decided; and (b) any notice of the proposed destruction of the drug matter that is required to be given under section 433D has not been given. Steps police officer must take before destroying drug matter under s 432 '(1) Before destroying drug matter under section 432, a police officer must photograph the drug matter where it is found. '(2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer 30 	'(3)	disp	disposed of in a way required under the Drugs Misuse				
 may be relevant has not been started or, if started, has not been decided; and (b) any notice of the proposed destruction of the drug matter that is required to be given under section 433D has not been given. Steps police officer must take before destroying drug matter under s 432 (1) Before destroying drug matter under section 432, a police officer must photograph the drug matter where it is found. (2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer 	' (4)	This	section applies even though—	18			
that is required to be given under section 433D has not been given.22Steps police officer must take before destroying drug matter under s 43223'(1) Before destroying drug matter under section 432, a police officer must photograph the drug matter where it is found.23'(2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer24		(a)	may be relevant has not been started or, if started, has	19 20 21			
matter under s 43220'(1)Before destroying drug matter under section 432, a police officer must photograph the drug matter where it is found.21'(2)For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer29		(b)	that is required to be given under section 433D has not	22 23 24			
 officer must photograph the drug matter where it is found. (2) For drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, the police officer 				25 26			
used, in the commission of a drug offence, the police officer 30	' (1)			27 28			
	'(2)	used	, in the commission of a drug offence, the police officer	29 30 31			

'433

²⁶ Drugs Misuse Regulation 1987, section 3 (Prescribed procedures for the disposal of hypodermic syringes and needles)

	(a) weigh the drug matter, or for plants, count the number of plants; and	1 2
	(b) retain a representative sample of the drug matter.	3
'(3)	This section does not apply to drug matter if section 433A applies to the drug matter.	4 5
	ernative to destruction if drug matter is thing used the commission of a drug offence	6 7
' (1)	This section applies despite section 432.	8
'(2)	If the commissioner is reasonably satisfied drug matter in the possession of the police service is a thing used or intended for use in the commission of a drug offence that may be destroyed under section 432, the commissioner may direct that the thing first be photographed and then disposed of in the way the commissioner considers appropriate instead of destroying it under section 432.	9 10 11 12 13 14 15
	Example—	16
	The commissioner may give a hydroponics system previously used for growing dangerous drugs to a school for use for an agricultural purpose.	17 18
'Subdivi	sion 3 Destruction of drug matter if notice required	19 20
'433B Ap	plication of sdiv 3	21
	'This subdivision applies to drug matter that is not destroyed under subdivision 2.	22 23
'433C De	finitions for sdiv 3	24
	'In this subdivision—	25
	<i>analyst's certificate</i> means a certificate of a kind mentioned in the <i>Drugs Misuse Act 1986</i> , section 128. ²⁷	26 27

²⁷ Drugs Misuse Act 1986, section 128 (Analyst's certificate)

	destruction notice see section 433D.	1
	<i>drug matter</i> does not include a thing intended for use, or that was used, in the commission of a drug offence.	2 3
	independent analyst see section 433E.	4
'433D De	struction notice may be given to person	5
'(1)	A police officer may give a person the police officer reasonably suspects has committed an offence in which drug matter is involved a written notice under this section (<i>destruction notice</i>).	6 7 8 9
'(2)	A destruction notice given to a person whose name and location are known must be in the approved form.	10 11
'(3)	However, if the person's name and location are not known or the person can not be located, the destruction notice may be given by making the information required to be stated in the approved form available on the police service website to the extent the information is known.	12 13 14 15 16
'(4)	A destruction notice given to a child under subsection (3) must not identify the child but must be given in a way that is enough for the child or the child's lawyer to identify the notice as relating to the child and the offence of which the drug matter is evidence.	17 18 19 20 21
'(5)	Also, a destruction notice given to a person under subsection (3) is taken to have been given to the person as soon as it may be viewed by a person using the Internet, whether or not the person to whom the notice relates knows the notice has actually been made accessible.	22 23 24 25 26
'433E Wh	at destruction notice must state	27
	'A destruction notice in relation to particular drug matter must state the following—	28 29
	(a) that the commissioner possesses an analyst's certificate relating to the drug matter;	30 31
	(b) what the analyst's certificate states the drug matter is;	32

(c)	that within 30 days after the notice is given, the person may, by written notice (<i>analysis request</i>), require the commissioner to make a representative sample of the drug matter available to an appropriately qualified person (<i>independent analyst</i>) for analysis;	1 2 3 4 5
(d)	that the analysis request must state the name, address and qualifications of the independent analyst;	6 7
(e)	that if the person gives the commissioner an analysis request and the commissioner makes a representative sample of the drug matter available under section 433F for analysis by an independent analyst, the person must pay the costs of the independent analyst's analysis of the representative sample;	8 9 10 11 12 13
(f)	that, if the person does not give the commissioner an analysis request within the 30 days, the commissioner may destroy the drug matter.	14 15 16

'433F Making sample of drug matter available

- If, after receiving an analysis request, the commissioner is **(**1**)** 18 satisfied the independent analyst named in the analysis 19 request has the qualifications necessary to analyse the drug 20 matter, the commissioner may make a representative sample 21 of the drug matter available to the independent analyst for 22 analysis, within 5 business days, at a time and place decided 23 by the commissioner and on the conditions the commissioner 24 considers appropriate. 25
- '(2) However, if the commissioner is not satisfied the independent 26 analyst has the qualifications necessary to analyse the drug 27 matter, the commissioner may require the person who made 28 the analysis request to name another independent analyst 29 within 30 days.
- '(3) If, within the 30 days, the person names another independent analyst and the commissioner is satisfied the independent analyst has the qualifications necessary to analyse the drug matter, the commissioner may make a representative sample available to the independent analyst under subsection (1).

'433G When drug matter may be destroyed

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- '(1) The commissioner may destroy drug matter to which a destruction notice relates if the person given the destruction notice does not name an independent analyst to analyse a representative sample within the time stated in the destruction notice or under 433F.
- Also, if the commissioner makes a representative sample of drug matter available to an independent analyst under section 8 433F(1), the commissioner may destroy the drug matter from 9 which the representative sample was made available at the end 10 of 10 business days after the day the commissioner made the 11 representative sample available to the independent analyst. 12
- '(3) However, if, within the 5 business days after the independent 13 analyst completes the analysis, the person to whom the 14 destruction notice is given gives to the commissioner a written 15 notice disputing the analysis in the analyst's certificate, the 16 commissioner must not destroy the drug matter until any 17 proceeding for the offence to which the analyst's certificate 18 relates is finally decided.

(4) This section does not limit section 443I. ²⁸ .

Clause 75 Amendment of s 435 (What is the appointed day for disposal of weapons under s 434) (1) Section 435(b)—

renumber as section 435(c).

(2) Section 435—

insert—

'(b) for a weapon given to a police officer under the *Weapons* 27 *Act 1990*, section 29B because of the making of a domestic violence order—3 months after the day the protection order is made against the person; or'.

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²⁸ Section 443I (Keeping dangerous drug for use in police service training)

Clause	76		nendment of s 438 (Order for forfeiture of particular evant things)	1 2
		(1)	Section 438(4), 'Subsection (3) does not'—	3
			omit, insert—	4
			'Subsections (3) and (4) do not'.	5
		(2)	Section 438(4), as amended, and (5)—	6
			renumber as section 438(5) and (6).	7
		(3)	Section 438(3)—	8
			omit, insert—	9
		' (3)	At least 30 days before the order for forfeiture is made, the commissioner must give the owner of the relevant thing a written notice stating that unless the thing is claimed, an order for its forfeiture to the State will be made under this section.	10 11 12 13
		'(4)	If the owner of the relevant thing is not known, the notice may be given—	14 15
			(a) by advertisement in a newspaper circulating generally throughout the State; or	16 17
			(b) on the police service website.'.	18
Clause	77	Am	nendment of s 441 (Dealing with forfeited things)	19
		(1)	Section 441(3)(b), after 'the thing'—	20
			insert—	21
			'and doing anything necessary to prepare it for sale'.	22
		(2)	After section 441(3), as an example—	23
			insert—	24
			'Example for paragraph (b)—	25
			cleaning the hard drive of a seized computer'.	26
		(3)	Section 441(4)—	27
			omit.	28

Clause	78 Ins	ertion of new ch 11, pt 3, div 9	1
		Chapter 11, part 3, after section 442—	2
		insert—	3
	'Division	9 Evidentiary provisions	4
		videntiary provision about particular things in the ssession of the police service	5 6
	' (1)	This section applies in relation to a running statement.	7
	'(2)	A certificate signed by the commissioner and stating a document attached to the certificate is a copy of a running statement is evidence of what is stated.	8 9 10
	' (3)	Also, the copy of the running statement is evidence of what is stated in the running statement.	11 12
	ʻ(4)	If, in a criminal proceeding, the prosecuting authority intends to rely on the certificate, it must, at least 14 business days before the hearing day, give a copy of the certificate to the defendant or the defendant's lawyer.	13 14 15 16
	ʻ(5)	If the defendant intends to challenge a matter stated in the certificate, the defendant must, at least 10 business days before the hearing day, give the prosecuting authority notice, in the approved form, of the matter to be challenged.	17 18 19 20
	' (6)	If the defendant acts under subsection (5), the certificate stops being evidence of the matter challenged.	21 22
	' (7)	In this section—	23
		<i>hearing day</i> means the day the hearing of the criminal proceeding starts.	24 25
		<i>prosecuting authority</i> means the entity responsible for prosecuting the criminal proceeding.	26 27
		<i>running statement</i> means a document that identifies itself as a running statement relating to a relevant thing in the possession of the police service that is evidence of the commission of an offence sufficiently identified in the running sheet to connect it to the proceedings in which the certificate is evidence and including the following—	28 29 30 31 32 33

		(a)	where and when the relevant thing was found;	1
		(b)	who found the relevant thing;	2
		(c)	the name of each person to whom the thing was given after it was found;	3 4
		(d)	before the relevant thing was given to each person who had possession of it, the relevant thing was kept secure from tampering;	5 6 7
		(e)	how the thing was dealt with by each person who had possession of it including, but not limited to, how, when and by whom it was transported from person to person or place to place.'.	8 9 10 11
Clause	79 Ins	ertior	n of new ch 11A	12
		After	chapter 11, part 5—	13
		inser	<i>t</i> —	14
	'Chapt	er 1	1A Provisions about evading	15
		-	police officers	16
	'Part 1		Preliminary	17
	'Division	1	Explanation	18
	'443V Exp	olanat	tion of ch 11A	19
	'(1)	direc moto when some	ers of motor vehicles sometimes fail to stop when ted to do so by a police officer using a police service or vehicle to attempt to intercept another motor vehicle in the police officer reasonably believes the driver, or cone else in the other motor vehicle, is committing or has mitted an offence.	20 21 22 23 24 25
	'(2)		iver's failure to stop may be based on a desire to avoid ecution for an offence.	26 27

'(3)	direc	e may be many reasons why a police officer gives a tion requiring a driver to stop, including, but not limited ecause—	1 2 3
	(a)	the driver is driving dangerously; or	4
	(b)	the driver is driving a motor vehicle reported as having been stolen; or	5 6
	(c)	the driver is driving a motor vehicle that has been used in the commission of an offence; or	7 8
	(d)	the police officer proposes to perform a breath test on the driver under the Road Use Management Act.	9 10
' (4)	This	chapter—	11
	(a)	provides for an offence called an evasion offence; and	12
	(b)	makes particular provision to help police officers in the investigation of evasion offences; and	13 14
	(c)	enables a court to order the impoundment or forfeiture of a motor vehicle after the court finds the driver of a motor vehicle guilty of an evasion offence.	15 16 17
'Division	2	Interpretation	18
'443W Def	initio	ns for ch 11A	19
	'In th	nis chapter—	20
	<i>alarn</i> devic	<i>n</i> includes a horn, a siren and another audible warning ce.	21 22
		esponding law, in relation to a transport Act, means a esponding law under the Road Use Management Act.	23 24
	evasi	<i>tration</i> , in relation to an evasion offence to which an on offence notice relates, means a statutory declaration ing any of the following—	25 26 27
	(a)	the name of the person believed to be using the motor vehicle involved in the evasion offence when the offence	28 29

(b)	the motor vehicle was being illegally used when the evasion offence happened;	1 2
(c)	the name of the driver of the motor vehicle involved in the evasion offence when the offence happened is not known and the nature of the inquiries made to find out who was driving the motor vehicle when the offence was committed;	3 4 5 6 7
(d)	the motor vehicle involved in the evasion offence was sold before the evasion offence happened and when and to whom it was sold.	8 9 10
evas	<i>tion offence</i> means an offence against section 443ZD(2). ²⁹	11
forf	eiture order see section 443ZI. ³⁰	12
imp	ounding order see section 443ZH. ³¹	13
the j of th	<i>inated person</i> , in relation to an evasion offence, means person nominated by either of the following as the driver ne motor vehicle involved in the evasion offence when the nce was committed—	14 15 16 17
(a)	the owner of the motor vehicle;	18
(b)	a person nominated in a declaration given under an evasion offence notice.	19 20
own	<i>er</i> , of a motor vehicle—	21
(a)	generally, means—	22
	 (i) if there is only 1 owner of the motor vehicle—the person in whose name the motor vehicle is registered under a transport Act or a corresponding law; or 	23 24 25 26
	person in whose name the motor vehicle is registered under a transport Act or a corresponding	24 25

²⁹ Section 443ZD (Offence for driver of motor vehicle to fail to stop motor vehicle)

³⁰ Section 443ZI (Application for forfeiture order for evasion offence)

³¹ Section 443ZH (Application for impounding order for evasion offence)

- (b) for a proceeding for an impounding order or a forfeiture 1 order, includes a holder of a security interest registered 2 for the motor vehicle under the Motor Vehicles and 3 Boats Securities Act 1986. 4 5 *prescribed period*, in relation to an application for a forfeiture order, means the relevant period and any period from the end 6 of the relevant period to and including the day on which the 7 application is heard and decided. 8 *relevant court*, in relation to an application for an impounding 9 order or a forfeiture order under this chapter, means-10 the Magistrates Court for the Magistrates Court district, (a) 11 or division of the district, nearest the place where the 12 evasion offence to which the application relates 13 happened; or 14 if the driver of the motor vehicle is a child—a Childrens (b) 15 Court constituted by a magistrate sitting in the 16 Magistrates Court district, or division of the district, 17 nearest the place where the evasion offence to which the 18 application relates happened. 19 *relevant period*, in relation to an evasion offence to which an 20 application for a forfeiture order relates, means the period of 3 21 years before the commission of the evasion offence giving rise 22 to the application for the forfeiture order. 23 *stop*, when used in relation to a direction given to a driver of a 24 motor vehicle under this chapter, includes remain at the place 25 where the driver stops the motor vehicle until the driver is 26 allowed to proceed or is otherwise dealt with according to law. 27 warning light see section 443Y.³² 28 '443X Giving a direction for ch 11A 29
 - For this chapter, a police officer gives a direction to the driver **(**1) 30 of another motor vehicle if-31

³² Section 443Y (What is a *warning light* for ch 11A)

	(a)	the police officer is in or on a police service motor vehicle that is being used to attempt to intercept the motor vehicle the driver is driving; and	1 2 3
	(b)	the driver of the police service motor vehicle brings that motor vehicle to a position in relation to the other motor vehicle where the driver or another police officer in or on the police service motor vehicle can give the driver of the other motor vehicle a direction to stop the other motor vehicle; and	4 5 6 7 8 9
	(c)	the police officer signals to the driver of the other motor vehicle to stop the motor vehicle—	10 11
		(i) by giving a physical or audible signal; or	12
		(ii) by displaying a warning light or warning lights and sounding an alarm.	13 14
·(2)	driv	subsection (1), a police officer gives a direction to the er of a motor vehicle when whichever of the following happens—	15 16 17
	(a)	the police officer gives a physical or audible signal to the driver of the motor vehicle;	18 19
	(b)	the police officer displays the warning lights and sounds an alarm fitted to the police service motor vehicle being used to attempt to intercept the motor vehicle.	20 21 22
'443Y Wh	nat is	a <i>warning light</i> for ch 11A	23
	offic	<i>varning light</i> is any of the following displayed by a police eer while using a police service motor vehicle to attempt to recept another motor vehicle—	24 25 26
	(a)	flashing blue and red lights;	27
	(b)	a flashing blue light;	28
	(c)	another flashing light, including alternately flashing headlights and alternately flashing tail-lights.	29 30

'443Z	to a	en a person is charged for this chapter in relation In evasion offence if proceeding for the offence is rted by notice to appear or arrest	1 2 3
	' (1)	This section applies for this chapter if a proceeding for an evasion offence is started against a person by notice to appear or arrest.	4 5 6
	'(2)	If the proceeding is started by notice to appear, the person is taken to be charged with having committed the offence when the notice to appear is issued and served on the person.	7 8 9
	' (3)	If the proceeding is started by arrest, the person is taken to be charged with having committed the offence when the person is arrested.	10 11 12
'443Z/		oounding or forfeiture of motor vehicle is in lition to other punishment	13 14
		'The impounding or forfeiture of a motor vehicle under this chapter arising out of the commission of an evasion offence is in addition to any other penalty that may be imposed on the person for the evasion offence.	15 16 17 18
'443ZE	3 Inte	eraction between ch 2B and this chapter	19
	'(1)	This section applies if, before a police officer can impound a motor vehicle under chapter $2B^{33}$ for a prescribed offence, the driver of the motor vehicle commits an evasion offence.	20 21 22
	'(2)	If an application for an impounding order for the motor vehicle can not be made under chapter 2B but may be made under this chapter, an application for an impounding order for the motor vehicle may be made under this chapter.	23 24 25 26
	' (3)	If an application for an impounding order for the motor vehicle may be made under chapter 2B or this chapter, an application for an impounding order for the motor vehicle may be made under chapter 2B or this chapter.	27 28 29 30

³³ Chapter 2B (Motor vehicle impounding powers for prescribed offences and motorbike noise direction offences)

'(4)	If an application for a forfeiture order for the motor vehicle can not be made under chapter 2B but may be made under this chapter, an application for a forfeiture order for the motor vehicle may be made under this chapter.	1 2 3 4
ʻ(5)	If an application for a forfeiture order for the motor vehicle may be made under chapter 2B or this chapter, an application for a forfeiture order for the motor vehicle may be made under chapter 2B or this chapter.	5 6 7 8
'Division	3 Relationship with Consumer Credit Code	9 10
'443ZC Re	lationship with Consumer Credit Code	11
	'Nothing in this chapter affects the right of a credit provider to repossess a motor vehicle under the Consumer Credit Code and sell it.	12 13 14
'Part 2	Offences and related	15

provisions	13 16
1 Offences	17
fence for driver of motor vehicle to fail to stop tor vehicle	18 19
This section applies if, in the exercise of a power under an Act, a police officer using a police service motor vehicle gives the driver of another motor vehicle a direction to stop the motor vehicle the driver is driving.	20 21 22 23
The driver of the motor vehicle must stop the motor vehicle as soon as reasonably practicable if a reasonable person would stop the motor vehicle in the circumstances.	24 25 26
	provisions 1 Offences Image: Section of the motor vehicle to fail to stop to vehicle This section applies if, in the exercise of a power under an Act, a police officer using a police service motor vehicle gives the driver of another motor vehicle a direction to stop the motor vehicle the driver is driving. The driver of the motor vehicle must stop the motor vehicle as soon as reasonably practicable if a reasonable person would

	Maximum penalty—200 penalty units or 3 years imprisonment.	1 2						
' (3)	An offence against subsection (2) is an evasion offence.	3						
'(4)	For subsection (2), it is sufficient evidence of the commission of the offence if the evidence is that the driver, in failing to stop, took action to avoid being intercepted by a police officer.	4 5 6						
(5) Also, for subsection (2) it is immaterial that the driver had a mistaken belief that the motor vehicle from which the police officer was giving the direction was an emergency vehicle unless the driver proves, on the balance of probabilities, that a reasonable person in the circumstances would have believed the motor vehicle was an emergency vehicle.								
' (6)	This section does not limit section 51.34	13						
' (7)	In this section—							
	<i>emergency vehicle</i> means a motor vehicle driven by a person performing functions as an ambulance officer or fire officer who drives the motor vehicle in the course of his or her duties as an ambulance officer or fire officer for any of the following—	15 16 17 18 19						
	(a) the Queensland Ambulance Service;	20						
	(b) an ambulance service of another State;	21						
	(c) the Queensland Fire and Rescue Authority;	22						
	(d) a fire brigade or service of another State.	23						
'Division 2 Matters about investigation of evasion offence								
ʻ443ZE Wi of i	nen evasion offence notice may be given to owner motor vehicle involved in offence	26 27						
(1) This section applies if on the investigation of an evenion								

(1) This section applies if, on the investigation of an evasion 28 offence, it appears to a police officer investigating the offence 29 that giving the owner of the motor vehicle involved in the 30

³⁴ Section 51 (Stopping vehicles for prescribed purposes)

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	offence a notice under this section may help in the investigation.	1 2
'(2)	The police officer may give the owner a notice (<i>evasion offence notice</i>) requiring the owner, within 4 business days, to state the name of the person the owner believes was using the motor vehicle when the evasion offence happened.	3 4 5 6
'(3)	If the owner is an individual, the evasion offence notice must be given to the owner personally.	7 8
'(4)	When giving the owner the notice, the police officer must explain to the owner what the notice requires and the consequences of not complying with the notice.	9 10 11
'(5)	The notice must identify the motor vehicle involved in the evasion offence and state—	12 13
	(a) when and where the offence was committed; and	14
	 (b) the name and address, when the offence was committed, of the person in whose name the motor vehicle was registered under a transport Act or a corresponding law; and 	15 16 17 18
	(c) that the owner must comply with the requirement within4 business days unless the owner has a reasonable excuse; and	19 20 21
	(d) that the owner may comply with the requirement by giving the commissioner a signed declaration within the 4 business days; and	22 23 24
	(e) the nature of the declarations the owner may give; and	25
	(f) that if the owner is a corporation the declaration must be signed by an executive officer of the corporation.	26 27
'(6)	This section applies to a nominated person in the same way as it applies to an owner.	28 29
	no may be prosecuted for evasion offence if no sponse to evasion offence notice	30 31
' (1)	This section applies only if—	32
	(a) a police officer gives an evasion offence notice to a person under section 443ZE; and	33 34

- (b) the person given the notice does not give a police officer a declaration as required under that section within the time required under that section.
- (2) The person is taken to have been the driver of the motor vehicle involved in the evasion offence to which the evasion offence notice relates even though the actual offender may have been someone else.
- '(3) If the actual offender is someone else, subsection (2) does not 8 affect the liability of the actual offender, but the person and 9 the actual offender can not both be punished for the offence. 10
- '(4) In a proceeding for an evasion offence, started against a person because of this section, it is a defence for the person to prove, on the balance of probabilities that the person was not the driver of the motor vehicle involved in the offence when the offence happened.

'Division 3 Evidentiary provisions

'443ZG Evidentiary provision

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- (1) In a proceeding for an evasion offence a certificate signed by the commissioner and stating that on a stated day a stated person was the owner of a stated motor vehicle is evidence of what it states.
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 19
 20
 21
- Also, an allegation or statement in a notice to appear or complaint alleging or stating any of the following is evidence of what it alleges or states—
 - (a) that a person is or is not or was or was not at any time or
 date mentioned in the notice to appear or complaint the
 owner of a stated motor vehicle;
 27
 - (b) that a person is or is not or was or was not at any time or date mentioned in the notice to appear or complaint of, or under, or over a stated age;
 28
 29
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 - (c) that a thing is or was a motor vehicle or of a particular 31 class or description of motor vehicle. 32

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'(3) In addition, in a proceeding, it is not necessary for the entity 1 responsible for prosecuting the evasion offence to call as a 2 witness for the prosecution a person who gave a declaration 3 that named a person other than the defendant as the driver of 4 the motor vehicle involved in the offence.

'Part 3 Obtaining impounding and forfeiture orders

'Division 1 Application provisions 8

'443ZH Application for impounding order for evasion offence

- (1) This section applies if a person who has not previously been 10 found guilty of an evasion offence is charged with an evasion 11 offence and an application under section 443ZI can not be 12 made for a forfeiture order for the motor vehicle involved in 13 the offence. 14
- (2) A police officer may apply to the relevant court in the 15 approved form for an order that the motor vehicle involved in 16 the offence be impounded and held at a holding yard for a 17 period of not more than 3 months (*impounding order*).

443ZI Application for forfeiture order for evasion offence			
' (1)	This	s section applies if—	24
	(a)	a person is charged with an evasion offence; and	25
	(b)	the person—	26

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	(i)	has previously been found guilty of 1 evasion offence committed on a previous occasion within the relevant period; or	1 2 3
	(ii)	has previously been charged with an evasion offence committed within the relevant period and the charge of that offence has not been decided.	4 5 6
'(2)	approved	officer may apply to the relevant court in the form for an order that the motor vehicle involved in e be forfeited to the State (<i>forfeiture order</i>).	7 8 9
ʻ(3)	vehicle m	n (2) applies even though the value of the motor ay be more than the maximum amount that may be n a personal action in the civil jurisdiction of a es Court.	10 11 12 13
'Division	2	Orders if offence not decided	14
	ders on ap ence not c	plication for impounding order if evasion lecided	15 16
' (1)	This section	on applies if—	17
	imp	application is made to a relevant court for an ounding order in relation to a motor vehicle involved in evasion offence; and	18 19 20
		proceeding on the charge of the evasion offence in ion to which the application is made has not been ded.	21 22 23
'(2)		t must adjourn the application until the person to e application relates has been found guilty of the	24 25 26
	ders on aj ence not c	oplication for forfeiture order if evasion lecided	27 28
' (1)	This section	on applies if—	29
		pplication is made to a relevant court for a forfeiture r for a motor vehicle involved in an evasion offence;	30 31 32

- (b) any proceeding on a charge of an evasion offence or evasion offences in relation to which the application is made has not been decided.
- (2) If the person to whom the application relates has not been 4 found guilty of evasion offences committed on 2 occasions 5 within the relevant period, the court must adjourn the 6 application until the person has been found guilty of evasion 7 offences committed on at least 2 occasions within the 8 prescribed period. 9

'Division 3 Advice of date of hearing

443ZL Advice to owner of date of hearing

- As soon as reasonably practicable after a date is set for the 12 **(**1) hearing of an application for an impounding order or a 13 forfeiture order in relation to a motor vehicle, a police officer 14 must give the person to whom the application relates and each 15 owner of the motor vehicle written notice of the date, time and 16 place of the hearing. 17
- **'**(2) If the person to whom the application relates or the owner is a 18 child and it is reasonably practicable to do so, notice must also 19 be given to the child's parent or guardian. 20

'Part 4	Deciding applications	21
'Division 1	Where and when application may be heard	22 23
'443ZM Where a	pplication is to be decided	24
	pplication for an impounding order or a forfeiture order be heard and decided by the relevant court.	25 26

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'443ZN Wh	en a	pplication to be heard	1
'(1)	evasi after	application for an impounding order in relation to an ion offence must be heard and decided as soon as possible the person to whom the application relates is found y of 1 evasion offence.	2 3 4 5
'(2)	offer the p	application for a forfeiture order in relation to an evasion ince must be heard and decided as soon as possible after person to whom the application relates has been found by of 2 evasion offences committed within the prescribed od.	6 7 8 9 10
' (3)	How made	ever, if, after an application for a forfeiture order is e-	11 12
	(a)	the person to whom the application relates is found not guilty of 1 of the evasion offences or the proceeding for 1 of the offences is discontinued; and	13 14 15
	(b)	no motor vehicle has previously been impounded for an evasion offence on an application made in relation to that person for an offence to which the application for the forfeiture order relates;	16 17 18 19
		elevant court may hear and decide the application for the iture order as if it were an application for an impounding r.	20 21 22
'(4)	appli	application for a forfeiture order to which subsection (3) tes is taken, for divisions 2 and 3, to be an application for mpounding order.	23 24 25
'Division	2	Consideration of applications	26
'443ZO Co	nside	eration of application for impounding order	27
' (1)		he hearing of an application for an impounding order for	28

an evasion offence, the relevant court may order that the motor29vehicle be impounded for a stated period, of not more than 330months if the person to whom the application relates has been31found guilty of 1 evasion offence.32

	Note—	1
	Section 443ZY makes provision for enforcing the order.	2
'(2)	Despite subsection (1), the relevant court may make an order under section 443ZQ for the performance by the person of community service as decided by the court.	3 4 5
'(3)	If the person was a child when the evasion offence was committed, the relevant court must consider whether to make a costs order under section 443ZR.	6 7 8
'443ZP Co	nsideration of application for forfeiture order	9
'(1)	On the hearing of an application for a forfeiture order for an evasion offence, the relevant court may order that the motor vehicle be forfeited to the State or impounded for the period, of not more than 3 months, fixed by the court if the person to whom the application relates has been found guilty of 2 evasion offences committed within the prescribed period.	10 11 12 13 14 15
' (2)	If—	16
	(a) under subsection (1), the relevant court orders the impounding of the motor vehicle to which the application relates; and	17 18 19
	 (b) a relevant court has previously made an impounding order under section 443ZO for an evasion offence committed within the relevant period and forming the basis of the application; 	20 21 22 23
	the motor vehicle is impounded under subsection (1) for the evasion offence giving rise to the application for the forfeiture order and not for the evasion offence to which the impounding order under section 443ZO relates.	24 25 26 27
'(3)	Despite subsection (1), the relevant court may make an order under section 443ZQ for the performance by the person to whom the application relates of community service as decided by the court.	28 29 30 31
'(4)	On the making of a forfeiture order for a motor vehicle—	32
	(a) the vehicle becomes the property of the State; and	33

	(b)	any right of a person to enforce a charge or other security interest registered under the <i>Motor Vehicles and</i> <i>Boats Securities Act 1986</i> against a person other than the State by taking possession of the vehicle is extinguished.	1 2 3 4 5
'Division	3	Other provisions about applications and orders	6 7
'Subdivis	sion	1 Community service orders	8
'443ZQ Co forf	mmu eiture	nity service instead of impounding or e order	9 10
' (1)	This	section applies if—	11
	(a)	the relevant court is satisfied impounding or forfeiting a motor vehicle will cause severe financial hardship to an owner or usual driver of the motor vehicle; and	12 13 14
	(b)	the person to whom the application relates was an adult when he or she committed the offence, or the last offence, to which the application relates.	15 16 17
'(2)	forfe	court may, instead of ordering the impounding or iture of the motor vehicle, order the person to perform nore than 240 hours community service.	18 19 20
' (3)	An o	rder made under subsection (2)—	21
	(a)	is taken to be an order under the <i>Penalties and Sentences</i> <i>Act 1992</i> for the performance of community service under a fine option order under that Act; and	22 23 24
	(b)	is taken to have been made in the proceeding for the evasion offence giving rise to the application for the impounding order or forfeiture order.	25 26 27

'Subdivision 2 Costs orders if child found guilty of evasion offence

'443ZR Costs order if child found guilty of evasion offence

'(1)	This section applies if the relevant court makes an impounding order and the person to whom the application relates was a child when he or she committed the evasion offence in relation to which the order is made.	4 5 6 7
'(2)	The relevant court must consider whether the child has the capacity to pay the costs of removing and keeping the motor vehicle and, if the court considers the child has the capacity to pay those costs, may order the child to pay the costs of removing and keeping the motor vehicle.	8 9 10 11 12
'(3)	If, after considering any submissions made by the child or the child's parent, the relevant court considers the child does not have the capacity to pay the costs of removing and keeping the motor vehicle, the relevant court may call on the child's parent under applied section 258 to show cause under applied section 259, as directed by the court, why the parent should not pay the costs of removing and keeping the motor vehicle.	13 14 15 16 17 18 19
' (4)	The relevant court may, under applied section 259, order the child's parent to pay the costs of removing and keeping the motor vehicle.	20 21 22
' (5)	In this section—	23
	<i>applied section 258</i> means the <i>Juvenile Justice Act 1992</i> , section 258, as applied by section 443ZS.	24 25
	<i>applied section 259</i> means the <i>Juvenile Justice Act 1992</i> , section 259, as applied by section 443ZS.	26 27
	<i>parent</i> includes a guardian other than the chief executive (child safety).	28 29
'443ZS Ap	oplication of applied sections for s 443ZR	30
·(1)	This section states how applied sections 258 and 259 apply for section 443ZR.	31 32
·(2)	Applied section 258 applies as if—	33

	(a)	subs	sections (1) and (9) were omitted; and	1
	(u) (b)		ference in the applied section—	2
	(0)	(i)	to compensation were a reference to the costs of removing and keeping a motor vehicle impounded under this chapter; and	2 3 4 5
		(ii)	to the prosecution were a reference to the applicant for the impounding order or forfeiture order.	6 7
' (3)	Appl	lied so	ection 259 applies as if—	8
	(a)	a ref	ference in the applied section—	9
		(i)	to compensation were a reference to the costs of removing and keeping a motor vehicle impounded under this chapter; and	10 11 12
		(ii)	to the prosecution were a reference to the applicant for the impounding order; and	13 14
	(b)	hear of th appl	ference in applied section $259(4)$ to a show cause ing is a reference to the hearing and determination he issue of whether a parent should be ordered, under ied section $259(5)$, to pay the costs of removing and bing a motor vehicle impounded under this chapter;	15 16 17 18 19 20
	(c)		ied section 259(4), to the extent it mentions the ctor of public prosecutions, does not apply; and	21 22
	(d)	men as 't reme the	expression in applied section 259(5) 'of the matters tioned in section 258(1)(a), (b) and (c)' read instead that the parent should be ordered to pay the costs of oving and keeping a motor vehicle impounded under <i>Police Powers and Responsibilities Act 2000</i> , oter 11A'.	23 24 25 26 27 28
'(4)	Also 259(2		relation to an order made under applied section	29 30
	(a)		Juvenile Justice Act 1992, section 260 does not y to that order; and	31 32

	(b) the order is taken instead to be an order fining a person for an offence for the purposes of the <i>State Penalties</i> <i>Enforcement Act 1999</i> , section 34. ³⁵	1 2 3
'Subdivi	sion 3 Offences	4
	otor vehicle not to be sold etc. before charge of ence is decided	5 6
'(1)	This section applies if a proceeding for an evasion offence is started against the driver or owner of a motor vehicle involved in the offence.	7 8 9
·(2)	The owner of the motor vehicle must not modify or sell or otherwise dispose of the motor vehicle before the proceeding is decided.	10 11 12
	Maximum penalty—40 penalty units.	13
' (3)	In this section—	14
	<i>modify</i> , a motor vehicle, includes remove the engine or gearbox from the motor vehicle.	15 16
	fence to remove motor vehicle impounded under urt order	17 18
	'A person must not unlawfully remove a motor vehicle impounded under an impounding order under this chapter from a holding yard.	19 20 21
	Maximum penalty—40 penalty units.	22

³⁵ *State Penalties Enforcement Act 1999*, section 34 (Default in paying fine, penalty or other amount under court order)

Subdivision 4 General

'443ZV Defence

'In a proceeding for an impounding order or a forfeiture order under this chapter, it is a defence for an owner of the vehicle to prove that the evasion offence happened without the knowledge and consent of the owner.

Example—

A parent lends a motor vehicle to his or her child to visit friends and the
child commits an evasion offence in the vehicle. If the relevant court is
satisfied, on evidence tendered or submissions made by the parent, that
the child committed the offence without the knowledge and consent of
the parent, the court may refuse to order the impounding or forfeiture of
the motor vehicle.810
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'443ZW Counting the occasions

- *(1) For sections 443ZI, 443ZK, 443ZN(2) and 443ZP, for an 15 occasion of the commission of an offence to be counted in 16 addition to another occasion counted, an occasion must be a 17 separate occasion, that is, an event or series of events that 18 happened on an occasion separate to the event or series of 19 events making up the other occasion.
- (2) In section 443ZI, a reference to an evasion offence committed on a previous occasion is a reference to an evasion offence
 committed on an occasion before the occasion of the evasion offence giving rise to the application for the forfeiture order.
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- *(3) Subject to subsections (1) and (2), for a decision under section 25
 443ZI, 443ZK, 443ZN(2) or 443ZP of whether or not a person 26
 has, or has previously, been charged with, or found guilty of, 27
 an evasion offence committed on a previous occasion or any 0ccasion or occasions, the following do not matter— 29
 - (a) whether or not any finding of guilt relied on relates to a charge heard and decided together with another charge 31 or other charges relating to another or other findings of 32 guilt being relied on;
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 - (b) whether or not findings of guilt relied on relate to 34 charges that were heard and decided in the order in 35

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which the occasions of the commission of offences to which they related happened;

whether or not any occasion of the commission of an (c) offence, or any charge or any finding of guilt, relied on happened before or after any occasion of the commission of an offence, charge or finding of guilt also relied on.

Example—

An offender commits evasion offences on 1 January (offence 1) and 1 9 May (offence 2). The offender is charged with offence 1 on 15 January 10 and offence 2 on 14 May. The offender is convicted of offence 2 on 15 11 June and offence 1 on 1 October. When a court considers the application 12 for impoundment or forfeiture on 1 December, for the purpose of 13 counting the occasions mentioned in subsection (1), there are 2 14 occasions the court may rely on to make an order. 15

- **'**(4) For a decision under sections 443ZO or 443ZP, the following do not matter—
 - (a) whether or not any finding of guilt relied on is for an offence in relation to which the application was 19 originally started; 20

Example for paragraph (a)—

22 An application may relate to particular evasion offences but before the application is decided, the driver is found guilty of 23 24 another evasion offence. The court may rely on the latter finding 25 of guilt when making an order under the sections mentioned.

(b) whether or not any finding of guilt relied on in an 26 application relates to an offence committed before or 27 after the application was started. 28

'443ZX Appeal

- **(**1) An order made against a person under section 443ZQ for the 30 performance of community service may be appealed against 31 as a sentence imposed on the person. 32
- A person may appeal against any other order of a relevant 33 ·(2) court to the District Court within 28 days after the order is 34 made. 35

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443ZY Po	wers	for enforcing court order	1
'(1)	unde for	section applies if a relevant court, on an application or this chapter for an impounding order or forfeiture order a motor vehicle, makes an impounding order or a siture order for the motor vehicle.	2 3 4 5
ʻ(2)	the c warr	giving effect to an impounding order or a forfeiture order, court may, in the order, authorise a police officer, without ant, to enter any place the police officer reasonably ects is a place where the motor vehicle may be found,	6 7 8 9 10
	(a)	for an impounding order—search for and impound the motor vehicle; or	11 12
	(b)	for a forfeiture order—search for and take possession of the motor vehicle for the State.	13 14
'(3)	offic ment the c	impounding order or forfeiture order authorises a police er to enter a place for giving effect to the order as tioned in subsection (2), power to enter the place under order includes power to re-enter the place as often as is onably necessary for the purpose.	15 16 17 18 19
'(4)		mpounding or taking possession of a motor vehicle under rder of a court, a police officer may—	20 21
	(a)	stop the motor vehicle if it is moving, whether or not the motor vehicle is on a road; or	22 23
	(b)	require the driver of the motor vehicle if it is stationary to remain at the place where it is stopped for the time reasonably necessary; or	24 25 26
	(c)	direct the person who has the key necessary to move the motor vehicle—	27 28
		(i) to give the key to a police officer; or	29
		(ii) if the motor vehicle is in a dwelling, to move the motor vehicle out of the dwelling and give the key to a police officer; or	30 31 32
	(d)	if it is necessary to enter the motor vehicle to impound or take possession of it, enter the motor vehicle to impound or take possession of it; or	33 34 35

	(e)	enter a place, other than the part of a place that is a dwelling, and stay for a reasonable time at the place; or	1 2
	(f)	do anything else reasonably necessary to impound or take possession of the motor vehicle.	3 4
' (5)	or (b	blice officer may exercise a power under subsection (4)(a) b) before or after a police officer seizes or takes possession be motor vehicle.	5 6 7
ʻ443ZZ Du mo	ties o tor v	of police officer after impounding or seizing ehicle	8 9
'(1)	or ta orde for t	er impounding a motor vehicle under an impounding order aking possession of a motor vehicle under a forfeiture er, a police officer must move the motor vehicle, or arrange the motor vehicle to be moved, to a holding yard in the the police officer considers appropriate.	10 11 12 13 14
'(2)	(2) If the motor vehicle is impounded, the police officer must the owner of the motor vehicle a notice stating—		15 16
	(a)	how the owner of the motor vehicle may recover the motor vehicle; and	17 18
	(b)	that, before the motor vehicle may be recovered, the owner may be required to produce satisfactory evidence of ownership of the motor vehicle; and	19 20 21
	(c)	that if the owner was the driver of the motor vehicle when the offence for which the motor vehicle was impounded happened, the owner will be required to pay the costs of removing and keeping the motor vehicle; and	22 23 24 25 26
	(d)	that if the owner was not the driver of the motor vehicle when the offence for which the motor vehicle was impounded happened, the driver will be required to pay the costs of removing and keeping the motor vehicle; and	27 28 29 30 31
	(e)	the penalty for unlawfully removing the motor vehicle from the place where it is held.	32 33

'443 ZZA P	olice officer may authorise tow	1		
' (1)	 This section applies if a police officer arranges for a moto vehicle impounded or forfeited to the State under division 2 to be moved to a holding yard. 			
'(2)	A police officer may sign a towing authority for the motor vehicle.			
' (3)	The driver of a tow truck towing the motor vehicle under a towing authority must tow the motor vehicle to—	7 8		
	(a) if the police officer directs the driver to tow the motor vehicle to a particular holding yard—the holding yard; or	9 10 11		
	(b) if paragraph (a) does not apply—the holding yard to which the driver ordinarily tows motor vehicles.	12 13		
' (4)	In this section—			
	towing authority means—	15		
	(a) a towing authority under the <i>Tow Truck Act 1973</i> ; or	16		
	(b) another document authorising a person to tow a motor vehicle.	17 18		
'Part 5	Other provisions	19		

Liability for costs of impounding **'Division 1** 20

'443ZZB L	iability to pay costs of impounding—adult driver	21
' (1)	This section applies in relation to a motor vehicle impounded for an evasion offence.	22 23
'(2)	If the motor vehicle was impounded because an adult driver was found guilty of an evasion offence and the driver was not the owner of the motor vehicle, the driver is liable to pay the costs of removing and keeping the motor vehicle.	24 25 26 27

s 79		100	s 79	
		Police Powers and Responsibilities and Other Acts Amendment Bill 2006		
	'(3)	If the motor vehicle was impounded because the owner found guilty of an evasion offence, the owner is liable to the costs of removing and keeping the motor vehicle.	pay 2	1 2 3

'443ZZC Liability to pay costs—child driver

- This section applies in relation to a motor vehicle impounded 5 ·(1) for an evasion offence if the driver or owner of the motor 6 vehicle was a child when he or she committed the offence for 7 which it was impounded. 8
- ·(2) The child is liable to pay the costs of removing and keeping 9 the motor vehicle if the relevant court orders under section 10 443ZR that the child pay the costs. 11
- **(**3) However, if the relevant court orders, under section 443ZR. 12 the child's parent to pay the costs of removing and keeping the 13 motor vehicle, the child's parent is liable to pay the costs of 14 removing and keeping the motor vehicle. 15

443ZZD Payment of costs if motor vehicle not recovered

- **(**1) This section applies if a person who is entitled to recover a 17 motor vehicle after a period of impoundment ends fails to 18 recover the motor vehicle after the period ends. 19
- ·(2) The driver is liable to pay the costs of keeping the motor 20 vehicle for each day after the period of impounding ends. 21

'443ZZE Registration of costs under State Penalties Enforcement Act 1999

- **(**1) If an adult who is liable to pay costs under this division fails to 24 pay the costs, the commissioner may give particulars of the 25 costs to the registrar under the State Penalties Enforcement 26 Act 1999 for registration under that Act as if-27
 - the commissioner were the registrar of a court; and (a)
 - the particulars were particulars of a fine imposed by a 29 (b) court and the amount of the fine were unpaid after the 30 time allowed by the court for payment. 31

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s 79			101 s 79	
		Police Powers and Responsibilities and Other Acts Amendment Bill 2006	1	
	'(2)		registrar must register the particulars under the <i>State</i> alties Enforcement Act 1999, section 34. ³⁶	1 2
' (3)	' (3)	For this section, the adult who fails to pay the costs under this division fails to pay the costs if—		3 4
		(a)	the commissioner obtains an order for payment of costs against the person; and	5 6
		(b)	the commissioner gives the person a copy of the order and a letter of demand for payment of the costs; and	7 8
		(c)	the person fails to pay the costs within 28 days after receiving the copy of the order and the letter of demand or the longer period agreed to by the commissioner.	

Release of impounded motor vehicle **'Division 2** 12 13

'443ZZF R ord	elease of motor vehicle impounded under court ler	14 15
'(1)	This section applies if a motor vehicle is impounded under a court order under part 4, division 2.	16 17
·(2)	When the period for which the motor vehicle is impounded ends, the owner of the motor vehicle is entitled to recover the motor vehicle from the holding yard at which it is kept.	18 19 20
'(3)	At the request of the owner, the person holding the motor vehicle must release the motor vehicle to the owner, or a person appointed in writing by the owner, at the first reasonably practicable opportunity, during business hours on a business day, after the request is made.	21 22 23 24 25
' (4)	In this section—	26
	business hours means 8a.m. to 5p.m.	27

State Penalties Enforcement Act 1999, section 34 (Default in paying fine, penalty or 36 other amount under court order)

s 79

s 79

'Division	3 Sale, transfer or disposal of impounded or forfeited motor vehicle	1 2 3
	ale of motor vehicle if not recovered after ounding ends	4 5
'(1)	If, within 2 months after a period of impounding of a motor vehicle ends, the owner of the motor vehicle does not recover it, the commissioner may sell the motor vehicle and anything in or on it by public auction or dispose of it in the way the commissioner considers appropriate.	6 7 8 9 10
'(2)	Notice of the proposed sale or disposal must be given by advertisement in a newspaper circulating in the locality where the vehicle was impounded.	11 12 13
'(3)	Also, the commissioner must give written notice of the proposed sale or disposal of the motor vehicle to the owner.	14 15
443ZZH Vo Stat	oluntary transfer of ownership of motor vehicle to te	16 17
' (1)	This section applies despite section 443ZT.	18
	Note—	19
	Under section 443ZT it is an offence for the owner of a motor vehicle that is the subject of an impounding order or forfeiture order application to modify, sell or otherwise dispose of the vehicle before the application is decided.	20 21 22 23
'(2)	The owner of a motor vehicle to which section 443ZT applies may agree to transfer ownership of the vehicle to the State.	24 25
' (3)	The agreement must be written and witnessed by a person who may witness a statutory declaration.	26 27
'(4)	If the State agrees in writing to the transfer of the motor vehicle—	28 29
	(a) the motor vehicle becomes the property of the State; and	30
	(b) the commissioner may sell or dispose of the motor vehicle and anything in or on it in the way the commissioner considers appropriate.	31 32 33

'443ZZI Dis	spos	al of forfeited motor vehicle	1	
'The commissioner may dispose of a motor vehicle forfeited to the State under this part in the way the commissioner considers appropriate, including by selling it.				
'443ZZJ Aj	oplica	ation of proceeds of sale	5	
(1) This section applies if the commissioner decides to sell motor vehicle under section 443ZZG or 443ZZI.				
'(2)	The orde	proceeds of the sale are to be applied in the following r—	8 9	
	(a)	in payment of the expenses of the sale;	10	
	(b)	in payment of the costs of removing and keeping the motor vehicle and for searching registers for giving notice of the motor vehicle's impounding;	11 12 13	
	(c)	if there is an amount owing to a person under a security interest registered for the motor vehicle under the <i>Motor</i> <i>Vehicles and Boats Securities Act 1986</i> —in payment of the amount owing to the holder of the security interest;	14 15 16 17	
	(d)	if the motor vehicle is sold under section 443ZZG—in payment of any balance to the owner;	18 19	
	(e)	if the motor vehicle is sold under section 443ZZI—in payment to the consolidated fund.	20 21	
'Division	4	Other provisions	22	
'443ZZK P	rotec	tion from liability	23	
'(1)	not 1	lice officer acting in good faith and without negligence is liable for any damage, loss or depreciation to a motor cle during the impounding of the motor vehicle.	24 25 26	
·(2)		bsection (1) prevents liability attaching to a police officer, lity attaches instead to the State.	27 28	
 (3) Also, if a police officer signs a towing authority under section 443ZZA for the motor vehicle, the State is not liable for an damage, loss or depreciation to the motor vehicle while it i 			29 30 31	

being moved under the towing authority and while it is impounded in the holding yard of the person authorised under the towing authority to tow the motor vehicle.

'443ZZL Third party protection from forfeiture order

- (1) A person, other than the defendant, who did not appear at the hearing of an application for a forfeiture order and has an interest in the motor vehicle forfeited to the State under the order may apply to the relevant court for an order under subsection (6).
- (2) Subsection (1) applies even though the value of the motor vehicle may be more than the maximum amount that may be claimed in a personal action in the civil jurisdiction of a Magistrates Court.
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- '(3) Unless the relevant court gives leave, the application must be 14 made before the end of the period of 6 months starting on the 15 day the forfeiture order was made.
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- '(4) The relevant court may give leave for a later application if it is satisfied that the delay in applying was not because of the applicant's neglect.
 17
- '(5) Unless the relevant court gives leave, a person who was given 20 notice of the application for the forfeiture order can not apply 21 to the court for an order under subsection (6).

(6) On an application, an order may be made—

(a) declaring the nature, extent and, if necessary for the order, the value (when the declaration is made) of the applicant's interest in the motor vehicle; and 26

(b) directing the State—

- (i) if the motor vehicle is still vested in the State—to 28 transfer the motor vehicle to the applicant; or 29
- (ii) if the motor vehicle is no longer vested in the 30 State—to pay to the applicant the value of the 31 applicant's interest in the motor vehicle after 32 taking into account any amount paid to the holder 33 of a registered security interest under section 34 443ZZJ(2)(c). 35

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'(7)	The relevant court must, and may only, make the order if it is satisfied—			
	(a) the applicant has or, apart from the forfeiture, would have a genuine interest in the motor vehicle; and	3 4		
	(b) the relevant evasion offence happened without the knowledge and consent of the applicant.	5 6		
'(8)	For all applications, including applications for leave to apply—	7 8		
	(a) the applicant must give notice of the making of the application to the commissioner; and	9 10		
	(b) the party given notice is a party to the application.	11		
' (9)	In this section—	12		
	<i>defendant</i> means the person found guilty of the evasion offence because of which the forfeiture order was made.	13 14		
	<i>relevant court</i> means the relevant court to which the application for the forfeiture order was made.	15 16		
	<i>relevant evasion offence</i> means the evasion offence because of which the forfeiture order was made.	17 18		
'443ZZM F	leview	19		
'(1)	The CMC must review the use by police officers of powers under this chapter and prepare a report on the review.	20 21		
'(2)	The review must be started as soon as practicable after 30 June 2009.	22 23		
'(3)	The conduct of the review and the preparation of the report is a function of the CMC for the <i>Crime and Misconduct Act 2001</i> .	24 25 26		
'(4)	In the course of preparing the report, the CMC must consult with the Minister.	27 28		
' (5)	The CMC must give a copy of the report to the Speaker for tabling in the Legislative Assembly.'.	29 30		

Clause	80		placement of s 447 (Assistance at fire or chemical idents)	1 2
			Section 447—	3
			omit, insert—	4
	'4 47	He	lping at fire or hazardous materials emergency	5
		' (1)	It is the duty of a police officer who is present at a fire or hazardous materials emergency to give a fire officer who is performing functions and exercising powers under the <i>Fire</i> <i>and Rescue Service Act 1990</i> reasonably necessary help.	6 7 8 9
		'(2)	In this section—	10
			<i>fire officer</i> has the meaning given by the <i>Fire and Rescue Service Act 1990</i> , schedule 6.	11 12
			<i>hazardous materials emergency</i> has the meaning given by the <i>Fire and Rescue Service Act 1990</i> , schedule 6.'.	13 14
Clause	81	Ins	sertion of new s 447B	15
			After section 447A—	16
			insert—	17
	'447E	3 Dis	sposal of clothing of deceased person	18
		' (1)	This section applies in relation to the clothing of a deceased person if a police officer is present when the clothing is removed from the deceased person's body.	19 20 21
		'(2)	If a police officer considers it would be inappropriate to give the clothing to a relative of the deceased person, for example, because it is damaged, soiled or stained, the police officer may dispose of the clothing, including by destroying it.	22 23 24 25
		' (3)	Clothing disposed of under subsection (2) is taken to have been forfeited to the State immediately before its disposal.'.	26 27
Clause	82	Am	nendment of s 448 (Assistance to courts, etc.)	28
		(1)	Section 448(3)—	29
			renumber as section 448(4).	30
		(2)	Section 448—	31

		insert—	1
	' (3)	Also, it is the duty of a watch-house officer to comply with any lawful direction, request, or order of the tribunal and any reasonable request the judge or other presiding officer may lawfully make that relates to the presence or conduct of a person transferred under section 397 from a watch-house to a court cell who is present before the tribunal.'.	2 3 4 5 6 7
Clause	83 A	mendment of s 455 (Compensation)	8
		Section 455(1)—	9
		omit, insert—	10
	'(1)	This section applies if a person suffers loss because—	11
		(a) a police officer exercises powers under this Act; or	12
		(b) an assistant exercises powers under this Act in accordance with a request of a police officer given under section 373.'.	13 14 15
Clause	84 In	sertion of new s 459A	16
		After section 459—	17
		insert—	18
	'459A R	enumbering of Act	19
	'(1)	On the commencement of this section, the provisions of this Act are amended by numbering and renumbering them in the same way as a reprint may be numbered and renumbered under the <i>Reprints Act 1992</i> , section 43.	20 21 22 23
	·(2)	Subsection (1) applies to a provision of this Act enacted or otherwise affected (a <i>relevant provision</i>) by a provision of an amending Act enacted but uncommenced when subsection (1) is commenced (the <i>uncommenced provision</i>), with the following intent for the relevant provision—	24 25 26 27 28
		(a) if the number of the relevant provision would have changed under subsection (1) had the uncommenced provision commenced—	29 30 31

,		108 S 03	
		Police Powers and Responsibilities and Other Acts Amendment Bill 2006	
		(i) a number is allocated to the relevant provision as if the uncommenced provision had commenced; and	
		(ii) when the uncommenced provision commences, the number of the relevant provision is amended by omitting it and inserting the number allocated to it under subparagraph (i);	
		(b) if the relevant provision would have been omitted or relocated had the uncommenced provision commenced, its number remains the same as it was before the commencement of subsection (1) until the omission or relocation takes effect.	
	'(3)	Without limiting the <i>Reprints Act 1992</i> , section 43(4), each reference in this Act, and each reference in another Act mentioned in schedule 3A to a provision of the Act renumbered under subsection (1), is amended, when the renumbering happens, by omitting the reference to the previous number and inserting the new number.	
	'(4)	This section and schedule 3A expire on the later of the following—	
		(a) the day after the commencement of the last numbering or renumbering of a provision done under the section;	

	amending Act means an Act that amends this Act.	24
'(5)	In this section—	23
	(b) 30 June 2007.	22

Clause	85	Insertion of new ch 13, pt 7	25
		Chapter 13—	26
		insert—	27

'Part 7 Transitional and Other provisions for Police Powers and Responsibilities and Other Acts Amendment Act 2006

'509 Particular evidentiary certificates under s 318ZZB

- '(1) This section applies if a prosecuting authority gives a 6 defendant a certificate under section 318ZZB(2), as in force 7 immediately before the commencement of the *Police Powers* 8 *and Responsibilities and Other Acts Amendment Act 2006*, 9 section 48, and the time for challenging a matter stated in the 10 certificate has not ended.
- (2) Section 318ZZB(3), as in force immediately before the 12 commencement of the *Police Powers and Responsibilities and* 13 *Other Acts Amendment Act 2006*, section 48, continues to 14 apply to the certificate.

'510 Effect of declaration under s 371F

- (1) To remove doubt, it is declared that the *Police Powers and* 17 *Responsibilities Amendment Regulation (No. 1) 2005* SL No. 18 84 is, and always was, effective to extend the end of the period 19 for expiry of sections 371B to 371E. 20
- (2) Also, sections 371B to 371F are taken never to have expired.
- (3) In addition, anything done under sections 371B to 371E after the date on which, apart from this section, the sections would otherwise have expired is as valid and effective as it would have been if the *Police Powers and Responsibilities* 25 *Amendment Regulation (No. 1) 2005* SL No. 84 had been made and notified before the end of the period for expiry of the sections. 28
- *(4) Further, if a regulation (*extension regulation*) is made before 29 the commencement of this section to further extend the period 30 for expiry of sections 371B to 371E, the extension regulation 31

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is as valid and effective as if this section had commenced before the commencement of the extension regulation.

(5) Anything else done under the extension regulation has effect.

'511 Transitional provision for former s 432

'Section 432, as in force immediately before 5 the commencement of the Police Powers and Responsibilities and 6 Other Acts Amendment Act 2006, section 74, continues to 7 apply in relation to a drug destruction notice given under 8 section 432 as if the Police Powers and Responsibilities and 9 Other Acts Amendment Act 2006, section 74 had not been 10 enacted.37 11

'512 Controlled activities

- **(**1**)** To remove any doubt, it is declared that a controlled activity 13 that was purportedly authorised under section 190, as in force 14 immediately before the commencement of the Cross-Border 15 Law Enforcement Legislation Amendment Act 2005, section 16 12 for an offence other than a serious indictable offence is and 17 always has been as validly authorised as it would have been 18 had the offence for which the controlled activity was 19 authorised been a serious indictable offence. 20
- (2) Also, to remove any doubt, it is declared that anything done 21 because of a purported authorisation of a controlled activity 22 mentioned in subsection (1) that would have been lawfully 23 done if the thing had been done under a validly authorised 24 controlled activity in relation to a serious indictable offence is 25 taken to have been lawfully done. 26

'513 Transitional regulation-making power

(1) A regulation (*transitional regulation*) may prescribe as 28 controlled activity offences for chapter 5 offences that are not 29 already controlled activity offences.
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³⁷ Police Powers and Responsibilities and Other Acts Amendment Act 2006, section 68 (Replacement of ch 11, pt 3, div 3)

	s 86			111	s 86	
			Police Po	owers and Responsibilities and Other Acts Amendment Bill 2006		
		'(2)	A transitiregulation	ional regulation must declare it is a	transitional	1 2
		' (3)		ion and any transitional regulation made months after this section commences.'.	de under it	3 4
Clause	86	Ins	ertion of r	new schs 3A–3B		5
			After sche	edule 3—		6
			insert—			7
	'Sc	hed	ule 3A	Renumbered cross-refer	ences	8
				Se	ction 459A	9

Aboriginal Communities (Justice and Land Matters) Act 1984	10 11
1 Section 13	12
Animal Care and Protection Act 2001	13
1 Section 154	14
Australian Crime Commission (Queensland)	15

	15
Act 2003	16

1 Section 29(14)

s 86		112	s 86	
		Police Powers and Responsibilities and Other Acts Amendment Bill 2006		
Bail	Ac	t 1980	1	
	1	Section 7	2	
	2	Section 14	3	
	3	Section 23	4	
	4	Section 29A	5	
		ssion for Children and Young People ild Guardian Act 2000	6 7	
	1	Schedule 4	8	
Con	nmı	inity Services (Torres Strait) Act 1984	9	
	1	Section 75	10)
Cor	one	rs Act 2003	11	
	1	Section 13	12	<u>,</u>
	2	Section 15	13	3
	3	Section 18	14	ŀ

s 86

s 86	113 Police Powers and Responsibilities and Other Acts Amendment Bill 2006	s 86				
Correct	Corrective Services Act 2006					
1	Section 20	2				
2	Section 104	3				
3	Section 112	4				
4	Section 202	5				
5	Section 206	6				
6	Section 210	7				
7	Section 327	8				
8	Section 405	9				

Crime and Misconduct Act 2001		
1	Section 40	11
2	Section 138	12
3	Section 139	13
4	Section 146	14
5	Section 255	15
6	Section 270	16
7	Section 317	17
8	Section 376	18
9	Section 377	19
10	Section 379	20
11	Section 381	21
12	Section 382	22

Crimina	al Proceeds Confiscation Act 2002	1
1	Section 44	2
2	Section 212	3
3	Section 213	4
4	Section 238	5
5	Section 239	6
6	Schedule 6	7
Domest 1989	tic and Family Violence Protection Act	8 9 10
Drugs I	Misuse Act 1986	11
1	Section 122A	12
Educati	ion (General Provisions) Act 1989	13
1	Section 117	14

Police Powers and Responsibilities and Other Acts Amendment Bill 2006

Education (Queensland College of Teachers) Act 2005		1 2
1	Schedule 3	3
Eviden	ce Act 1977	4
1	Section 21AD	5
2	Section 21C	6
3	Section 21G	7
4	Section 137	8
Freedo	m of Information Act 1992	9
1	Schedule 3	10
Justice	s Act 1886	11
1	Section 47	12
Juvenil	e Justice Act 1992	13
1	Section 11	14
2	Section 13	15

3	Section 43	1
4	Section 49	2
5	Section 50	3
6	Section 69	4
7	Section 168	5
8	Section 289	6
9	Section 323	7
10	Section 328	8
11	Schedule 4	9
Legal Profession Act 2004		
1	Section 323	11

Local Government (Aboriginal Lands) Act 1978 12

13

Liquor Act 1992

1 Section 187A 15

Amendment Bill 2006

Police Powers and Responsibilities and Other Acts Amendment Bill 2006	
Marine Parks Act 2004	
1 Section 52	
Mental Health Act 2000	

1	Section 25	4
2	Section 30	5
3	Section 508	6
4	Section 513	7
5	Section 515	8
6	Section 568	9

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Police Service Administration Act 1990		
1	Section 1.4	13
2	Section 5.17	14
3	Section 5A.2	15
4	Section 5AA.14	16
5	Section 10.1	17

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	Police Powers and Responsibilities and Other Acts Amendment Bill 2006	
Prostit	ution Act 1999	1
1	Section 60	2
2	Section 65	3
3	Section 75	4
Public	Health Act 2005	5
1	Section 318	6
Public	Safety Preservation Act 1986	7
1	Section 27	8
2	Section 41	9
3	Section 42	10
State P	Penalties Enforcement Act 1999	1
1	Section 151	12
Summa	ary Offences Act 2005	13
1	Section 11	14
2	Section 15	1:

s 8 6	119	s 86
	Police Powers and Responsibilities and Other Acts Amendment Bill 2006	
3	Section 27	
4	Section 28	
Ferroris	sm (Preventative Detention) Act 2005	
1	Section 23	
2	Section 29	
3	Schedule	
Fow Tru	ıck Act 1973	
1	Section 4	
2	Section 4C	
3	Section 38	
4	Section 43	
Neapor	ns Act 1990	
1	Section 168C	
Youth P Act 200	Participation in Education and Training	g

1 Section 21 16

'Schedule 3B Additional controlled activity offences

Indictable offences

1 2

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section 132 3

	Il Code
An Coc	offence against the following provisions of the Criminal
•	section 398 (Punishment of stealing) if the offence does not involve punishment as a special case
•	section 406 (Bringing stolen goods into Queensland)
•	section 408C(1) (Fraud) if, in the circumstances of the offence, the offence is not a seven year imprisonment offence
•	section 408D (Computer hacking and misuse) if, in the circumstances of the offence, the offence is a crime but is not a seven year imprisonment offence
•	section 444A (Killing animals with intent to steal)
•	section 444B (Using registered brands with criminal intention)
•	section 445 (Unlawfully using stock)
•	section 446 (Suspicion of stealing stock)
•	section 447 (Illegal branding)
•	section 448 (Defacing brands) if the offence does not involve punishment as a special case
•	section 448A (Having in possession stock with defaced brand)

Part 1

• section 469 (Wilful damage) if the offence does not involve punishment as a special case	1 2
• section 488 (Forgery and uttering)	3
• section 514(1) (Personation in general)	4
• section 541 (Conspiracy to commit crime) if, in the circumstances of the offence, the offence is not a seven year imprisonment offence	5 6 7
• section 542 (Conspiracy to commit other offences)	8
• section 544 (Accessories after the fact to crimes)	9
• section 545 (Accessories after the fact to misdemeanours and some other offences) if, in the circumstances of the offence, the offence is not a seven year imprisonment offence.	10 11 12 13
Drugs Misuse Act 1986 An offence against the following provisions of the Drugs	14 15
Misuse Act 1986—	16
• section 10(1) (Possessing things) if the offence involves possession of a thing for use, or that has been used, in connection with the commission of a crime relating to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A	17 18 19 20 21
• section 11(1) (Permitting use of place) if the offence involves permitting the use of a place for the commission of a crime in relation to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A.	22 23 24 25 26
Weapons Act 1990	27
An offence against the <i>Weapons Act 1990</i> , section 50(1) (Possession of weapons) involving circumstances to which	28 29

paragraph (c)(ii) of the penalty applies.

Part	2 Simple offences	1
4	Animal Care and Protection Act 2001	2
	An offence against the following provisions of the Animal Care and Protection Act 2001—	3 4
	• section 21 (Participation in prohibited event)	5
	• section 22 (Presence at prohibited event).	6
5	Criminal Code	7
	An offence against the following provisions of the Criminal Code—	8 9
	• section 408D (Computer hacking and misuse) if, in the circumstances of the offence, the offence is not a crime	10 11
	• section 426 (Unlawful entry of vehicle).	12
6	Criminal Proceeds Confiscation Act 2002	13
	An offence against the <i>Criminal Proceeds Confiscation Act</i> 2002, section 252 (Possession etc. of property suspected of being tainted property).	14 15 16
7	Drugs Misuse Act 1986	17
	An offence against the <i>Drugs Misuse Act 1986</i> , section 10A (Possessing suspected property).	18 19
8	Explosives Act 1999	20
	An offence against the following provisions of the <i>Explosives</i> Act 1999—	21 22
	• section 11 (Offence in relation to unauthorised and prohibited explosives)	23 24
	• section 34 (Authority required to possess explosives)	25
	• section 36 (Bringing or sending certain explosives into and out of the State)	26 27

		• section 38 (Explosive to be manufactured under authority)	1 2
		 section 42 (Unauthorised sales of explosives) 	2
		 section 44 (Authority needed to store explosives). 	4
9	Pro	ostitution Act 1999	5
		An offence against the <i>Prostitution Act 1999</i> , section 73 (Public soliciting for purposes of prostitution).	6 7
10	We	apons Act 1990	8
		An offence against the following provisions of the Weapons Act 1990-	9 10
		• section 35 (Acquisition of weapons)	11
		• section 36 (Sale or disposal of weapons)	12
		• section 50 (Possession of weapons) involving circumstances to which paragraph (c)(iii) of the penalty applies)	13 14 15
		• section 61 (Shortening firearms)	16
		• section 62 (Modifying construction or action of firearms)	17 18
		• section 64 (Obtaining weapons by deceit)	19
		• section 66 (Dispatch of weapons).'.	20
87	Am	nendment of sch 4 (Dictionary)	21
	(1)	Schedule 4, definitions entrant, forfeiture order, impounding order, modify, place of safety, post-prison community based release order, prescribed indictable offence, prescribed period, prescribed place, public official, relevant court and relevant period—	22 23 24 25 26
		omit.	27
	(2)	Schedule 4—	28
		insert—	29

Clause

'ala	\boldsymbol{n} , for chapter 11A, see section 443W. 1				
	<i>nal</i> , for chapter 2D, part 2, see the Road Use Management schedule 4.	2 3			
wate	<i>ant</i> , to a state building, a special event site or a ch-house, means a person who is about to enter or is at the ding, site or watch-house.	4 5 6			
evas	ion offence, for chapter 11A, see section 443W.	7			
extr	adition offence see section 206.38	8			
deta a di	<i>erprint</i> means an image or impression of friction ridge il from the palmar surface of a person's hand and includes gital image of the friction ridge detail from the palmar ace of the person's hand.	9 10 11 12			
	<i>eiture order</i> , other than in relation to a forfeiture reeding—	13 14			
(a)	for chapter 2B, see section 59A; or	15			
(b)	for chapter 11A, see section 443W.	16			
imp	ounding order—	17			
(a)	for chapter 2B, see section 59A; or	18			
(b)	for chapter 11A, see section 443W.	19			
mod	<i>lify</i> a motor vehicle—	20			
(a)	for chapter 2B, see section 59A; or	21			
(b)	for chapter 11A, see section 443ZT.	22			
pres	cribed period—	23			
(a)	for chapter 2B—see section 59A; or	24			
(b)	for chapter 11A—see section 443W.	25			
pres	cribed place, for chapter 2, part 4, means—	26			
(a)	a shop; or	27			
(b)	a child-care centre; or	28			
(c)	a pre-school centre; or	29			

(d)	a primary, secondary or special school; or	1
(e)	premises licensed under the Liquor Act 1992; or	2
(f)	a railway station and any railway land around it; or	3
(g)	a mall; or	4
(h)	the part of the corporation area under the <i>South Bank</i> <i>Corporation Act 1989</i> declared to be the site under that Act; or	5 6 7
(i)	a licensed venue under the Racing Act 2002; or	8
(j)	an automatic teller machine; or	9
(k)	a war memorial;	10
any	in relation to soliciting for prostitution, does not include area in a licensed brothel that can not be viewed from de the brothel.	11 12 13
publ	<i>ic official</i> means—	14
(a)	for a government entity—a person who is appointed or authorised under an authorising law to perform inspection, investigation or other enforcement functions under the authorising law for the entity; or	15 16 17 18
(b)	for an entity other than a government entity or a local government—a person who is declared under a regulation under this Act to be a public official in relation to inspection, investigation or other enforcement functions the person is appointed or authorised to perform under an authorising law for the entity; or	19 20 21 22 23 24 25
(c)	for chapter 1, part 3, division 2 ³⁹ —an authorised person under the <i>Local Government Act 1993</i> ; or	26 27
(d)	otherwise—a person who is declared by another Act to be a public official for this Act.	28 29
0	<i>tered operator</i> has the meaning given by the Road Use agement Act, schedule 4.	30 31

³⁹ Chapter 1 (Preliminary), part 3 (Appointment as, and helping public officials), division 2 (Helping public officials)

	Police Powers and Responsibilities and Other Acts Amendment Bill 2006	
	regulated place see section 35A.40	
	relevant court—	
	(a) for chapter 2B, see section 59A; or	
	(b) for chapter 11A, see section 443W.	
	relevant period—	
	(a) for chapter 2B—see section 59A; or	
	(b) for chapter 11A—see section 443W.	
	stop, for chapter 11A, see section 443W.	
	warning light, for chapter 11A, see section 443W.	
	<i>watch-house officer</i> see the <i>Police Service Administration Act 1990</i> , section 1.4. ⁴¹ '.	
(3)	Schedule 4, definition cash dealer, 'Transactions'—	
	omit, insert—	
	'Transaction'.	
(4)	Schedule 4, definition <i>covert act</i> , paragraph (b), after 'monitoring order,'—	
	insert—	
	'a suspension order,'.	
(5)	Schedule 4, definition DNA sampler, paragraph (b) and (c)-	
	renumber as paragraphs (c) and (d).	
(6)	Schedule 4, definition DNA sampler—	
	insert—	
	(b) a watch-house officer authorised under section 397K to take DNA samples; or'.	
(7)	Schedule 4, definition enforcement act—	
	insert—	

Section 35A (Application of pt 4) 40

⁴¹ Police Service Administration Act 1990, section 1.4 (Definitions)

	'(la) the detention of a person under section 371B. ⁴² '.	1
(8)	Schedule 4, definition <i>identifying particulars offence</i> ,	2 3
	paragraph (b)—	
	insert—	4
	• <i>Prostitution Act 1999</i> , section 73'.	5
(9)	Schedule 4, definition <i>identifying particulars offence</i> —	6
	insert—	7
	(c) an extradition offence.'.	8
(10)	Schedule 4, definition <i>minor drugs offence</i> , paragraph (a), from $(10(2)(a))$ —	9 10
	omit, insert—	11
	'10(2) involving either or both of the following—	12
	(a) possessing not more than 50 grams of cannabis sativa;	13
	(b) possessing a thing for use, or that has been used, for smoking cannabis sativa; but'.	14 15
(11)	Schedule 4, definition owner, after 'chapter 2B'	16
	insert—	17
	'or 11A'.	18
(12)	Schedule 4, definition <i>owner</i> , after 'corresponding law'—	19
	insert—	20
	', within the meaning of the Road Use Management Act, schedule 4,'.	21 22
(13)	Schedule 4, definition <i>photograph</i> , after 'an image'—	23
	insert—	24
	', whether digitally or in another way'.	25
(14)	Schedule 4, definition <i>police establishment</i> , after 'a police'—	26
	insert—	27
	'station or police'.	28
	±	-

88		128	s 89	
		Police Powers and Responsibilities and Other Acts Amendment Bill 2006		
	(15)	Schedule 4, definition <i>potentially harmful thing</i> , parag (a), ' <i>Example</i> '—	1	1 2
		omit, insert—		3
		'Examples'.		4

- Schedule 4, definition property tracking document, paragraph (16) 5 (b)(ii), 'that'— 6 7 omit. (17) Schedule 4, definition *weapon*, paragraph (b), 'section 5'—
 - 8 omit, insert— 9 'schedule 2'. 10

Part 3 **Amendment of Criminal Code** 11

Clause	88	Ac	t amended in pt 3	12
			This part amends the Criminal Code.	13
Clause	89	Am	nendment of s 340 (Serious assaults)	14
			Section 340—	15
			insert—	16
		'(2A)	For subsection (1)(b), the circumstances in which a person assaults a police officer include, but are not limited to, circumstances in which the person bites, spits on or throws a bodily fluid or faeces at a police officer.'.	17 18 19 20

	Amendment Bill 2006				
	Part	4		Amendment of Crime and Misconduct Act 2001	1 2
Clause	90	Ac	t amende	ed in pt 4 and references	3
		(1)	This part	amends the Crime and Misconduct Act 2001.	4
		(2)	and 382	nce in this part to chapter 3, part 6A and sections 381 is a reference to the provisions as inserted by the order Law Enforcement Legislation Amendment Act ction 69.	5 6 7 8
Clause	91	On cre	nission of eating ide	f ch 3, pt 6A, div 5 (Special provisions about ntity documents)	9 10
			Chapter (3, part 6A, division 5—	11
			omit.		12
Clause	92	Ins	ertion of	new ch 3, pt 6B	13
			Chapter (3, after part 6A—	14
			insert—		15
	'Part	t 6E	3	Assumed identities	16
	'Divis	sior	n 1	Preliminary	17
	'146 0	Pu	rpose of	pt 6B	18
				in purpose of this part is to facilitate investigations ligence gathering in relation to misconduct offences.	19 20
	'146P	Но	w purpos	se is achieved	21

'The purpose is to be achieved primarily by providing for the lawful acquisition and use of an assumed identity. 22 23

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Police Powers and Responsibilities and Other Acts

ʻ146Q	Definitions for pt 6B	1
	'In this part—	2
	<i>acquire</i> , an assumed identity, means acquire evidence, or take steps to acquire evidence, of the identity.	3 4
	agency means—	5
	(a) an issuing agency; or	6
	(b) the commission.	7
	<i>authorised civilian</i> means a person, other than a commission officer, who is authorised under an authority to acquire or use an assumed identity.	8 9 10
	<i>authorised identity officer</i> means a commission officer who is authorised under an authority to acquire or use an assumed identity.	11 12 13
	authorised person means—	14
	(a) an authorised civilian; or	15
	(b) an authorised identity officer.	16
	<i>authority</i> means an authority granted under section 146T ⁴³ to acquire or use an assumed identity, including the authority as varied under section 146W. ⁴⁴	17 18 19
	birth certificate approval see section 146Y.45	20
	conduct includes any act or omission.	21
	<i>doing</i> a thing, includes failing to do the thing.	22
	<i>evidence</i> , of identity, means a document or other thing, including, for example, a driver licence, birth certificate, credit card or identity card, that evidences or indicates, or can be used to evidence or indicate, a person's identity or any aspect of a person's identity. <i>government issuing agency</i> , in relation to an authority, means	23 24 25 26 27 28
	an entity that—	29

⁴³ Section 146T (Deciding application)

⁴⁴ Section 146W (Variation or cancellation of authority)

⁴⁵ Section 146Y (Approval for creation of birth certificate for assumed identity)

	(a) is named in the authority; and	1
	(b) issues evidence of identity as part of performing any function of the government.	2 3
	issuing agency means—	4
	(a) a government issuing agency; or	5
	(b) a non-government issuing agency.	6
	<i>non-government issuing agency</i> , in relation to an authority, means an entity, other than a government issuing agency, that—	7 8 9
	(a) is named in the authority; and	10
	(b) issues evidence of identity.	11
	<i>officer</i> , of an agency, includes a person employed or engaged in the agency.	12 13
	<i>supervisor</i> , of an authorised civilian, means the authorised commission officer, appointed under section 146T(3), who supervises or is to supervise the acquisition or use of an assumed identity by the authorised civilian.	14 15 16 17
	<i>use</i> an assumed identity, includes representing, whether expressly or impliedly, or by saying or doing something, the identity to be real when it is not.	18 19 20
'146R Rel	ationship to other laws	21
	'The Public Records Act and the <i>Freedom of Information Act</i> 1992 do not apply to activities or records under divisions 2 to 7.	22 23 24
'Division	Authorities for assumed identities	25
	plication for authority to acquire or use assumed ntity	26 27
' (1)	A commission officer may apply to the chairperson for an authority for the officer or another person to do either or both	28 29

of the following—

	(a)	acqu	ire an assumed identity;	1
	(b)	use a	an assumed identity.	2
'(2)		-	te application must be made for each assumed be acquired or used.	3 4
' (3)	An a	pplica	ation—	5
	(a)		t be in writing in the form decided by the rperson; and	6 7
	(b)	mus	t contain all of the following information—	8
		(i)	the applicant's name;	9
		(ii)	if a person other than the applicant is to be authorised to acquire or use an assumed identity—that person's name;	10 11 12
		(iii)	if the person mentioned in subparagraph (ii) is not a commission officer—the name and rank or position of the person proposed to be appointed as supervisor, and an explanation of why it is necessary for a person who is not a commission officer to acquire or use the assumed identity;	13 14 15 16 17 18
		(iv)	details of the proposed assumed identity;	19
		(v)	reasons for the need to acquire or use an assumed identity;	20 21
		(vi)	details, to the extent known, of the investigation or intelligence gathering exercise in which the assumed identity will be used;	22 23 24
		(vii)	details of any issuing agencies and the types of evidence to be issued by them.	25 26
'(4)	infor	matic	person may require the applicant to give additional on about the application the chairperson considers are for consideration of the application.	27 28 29

'146T Deciding application

'(1)After considering an application for an authority to acquire or
use an assumed identity, and any additional information given31
32
33under section 146S(4), the chairperson—33

	(a) may grant an authority to acquire or use the assumed identity, with or without conditions; or	1 2
	(b) may refuse the application.	3
'(2)	The chairperson must not grant an authority to acquire or use an assumed identity unless the chairperson is satisfied on reasonable grounds of all of the following—	4 5 6
	 (a) the assumed identity is necessary for the purposes of an investigation or intelligence gathering in relation to a misconduct offence; 	7 8 9
	(b) the risk of abuse of the assumed identity by the authorised person under the authority is minimal;	10 11
	(c) if the application is for authorisation of an assumed identity for a person who is not a commission officer—it would be impossible or impracticable in the circumstances for a commission officer to acquire or use the assumed identity for the purpose sought.	12 13 14 15 16
'(3)	If an authority is granted for an authorised civilian, the chairperson must appoint an authorised commission officer to supervise the acquisition or use of the assumed identity by the authorised civilian.	17 18 19 20
' (4)	An authority may also authorise—	21
	(a) an application to the independent member for a birth certificate approval; or	22 23
	(b) a request under section 146ZB. ⁴⁶	24
'(5)	A separate authority is required for each assumed identity.	25
ʻ146U Foi	m of authority	26
' (1)	An authority must be—	27
	(a) in writing in the form decided by the chairperson; and	28
	(b) signed by the person granting it.	29
'(2)	An authority must state all of the following—	30

	(a)	the name of the person granting the authority;
	(b)	the date of the authority;
	(c)	details of the assumed identity under the authority;
	(d)	details of the evidence of the assumed identity that may be acquired under the authority;
	(e)	the conditions, if any, to which the authority is subject;
	(f)	why the authority is granted;
	(g)	if the authority relates to an authorised identity officer—the name of the official;
	(h)	if the authority relates to an authorised civilian—
		(i) the name of the authorised civilian; and
		(ii) the name of the civilian's supervisor under the authority; and
		(iii) the period, of not more than 3 months, for which the authority remains in force.
' (3)	The	authority also must state the following—
	(a)	whether it authorises an application to the independent member for a birth certificate approval;
	(b)	each issuing agency to which a request may be made under section 146ZB. ⁴⁷

'146V Period of authority

- (1) An authority for an authorised identity officer remains in force 22 until cancelled under section 146W. 23
- (2) An authority for an authorised civilian remains in force until the end of the period stated in the authority under section 146U(2)(h)(iii), unless the authority is sooner cancelled under section 146W.
 24
 25
 26
 27

⁴⁷ Section 146ZB (Request for evidence of assumed identity)

'146W Var	iation or cancellation of authority	1
' (1)	The chairperson—	2
	(a) may vary or cancel the authority at any time; and	3
	(b) must cancel the authority if satisfied, on a review under section 146X or otherwise, that use of the assumed identity under the authority is no longer necessary.	4 5 6
'(2)	The chairperson must give written notice of the variation or cancellation to—	7 8
	(a) the authorised person to whom the authority relates; and	9
	(b) if the authorised person is an authorised civilian—the authorised person's supervisor.	10 11
·(3)	The notice must state the reasons for the variation or cancellation.	12 13
'(4)	The variation or cancellation has effect on—	14
	(a) the day the notice is given to the authorised person; or	15
	(b) if a later day is stated in the notice—the later day.	16
'146X Rev	view of authority	17
'(1)	The chairperson must, at least once a year, review each authority granted by the chairperson and in force under this chapter.	18 19 20
'(2)	The purpose of a review is to decide whether use of the assumed identity under the authority is still necessary.	
'(3)	If the chairperson is satisfied on a review that use of the assumed identity is no longer necessary, the chairperson must cancel the authority under section 146W.	
'(4)	If the chairperson is satisfied on a review that use of the assumed identity is still necessary, the chairperson must record the chairperson's opinion, and the reasons for it, in writing.	26 27 28 29

'Division 3		Evidence of assumed identities	1	
'Subdiv	vision ⁻	1 Creation of birth certificates for assumed identities	2 3	
	pproval lentity	for creation of birth certificate for assumed	4 5	
' (1)	autho	chairperson may apply to the independent member for rity to create a birth certificate (a <i>birth certificate</i> <i>wal</i>) for an assumed identity for an authorised person.	6 7 8	
'(2)	inforr consi	The application must be written and include enough information to enable the independent member to properly consider whether the birth certificate approval should be granted.		
' (3)	appro havin be un	The independent member may grant the birth certificate approval only if satisfied granting the approval is justified having regard to the nature of the activities undertaken or to be undertaken by the authorised person under the authority for the assumed identity.		
'(4)	writte name create	th certificate approval granted under this section must be en, signed by the independent member, and state that a d commission officer is authorised under this section to e a birth certificate for the purpose of concealing the ty of an authorised person.	18 19 20 21 22	
'146Z G	iving ef	fect to birth certificate approval	23	
'(1)		e production to the registrar-general, for inspection, of a certificate approval—	24 25	
		the commission officer named in the approval may create a birth certificate as authorised under the approval; and	26 27 28	
		the registrar-general must give the officer any help the officer reasonably requires for the purpose.	29 30	
'(2)		commission officer must, if practicable, give the rar-general at least 3 days notice of the day the officer	31 32	

	intends to create the birth certificate under the birth certificate approval.	1 2	
'146ZA De	struction of birth certificate created under s 146Z	3	
'(1)	This section applies in relation to a birth certificate created under a birth certificate approval (a <i>created birth certificate</i>).		
'(2)	As soon as practicable after the authority for an assumed identity to which the created birth certificate relates is cancelled, the chairperson—		
	(a) must cause the created birth certificate to be destroyed; and	9 10	
	(b) must notify the registrar-general that the created birth certificate is no longer being used and has been destroyed.	11 12 13	
'Subdivi	sion 2 Other provisions about evidence of assumed identities	14 15	
'146ZB Re	quest for evidence of assumed identity	16	
'(1)	This section applies if an authority authorises a request under this section.	17 18	
'(2)	The chairperson may ask the chief executive officer of an issuing agency stated in the authority to—	19 20	
	(a) produce evidence of an assumed identity in accordance with the authority; and	21 22	
	(b) give evidence of the assumed identity to the authorised person named in the authority.	23 24	
' (3)	The request must state a reasonable period for compliance with the request.	25 26	
'(4)	A request can not be made under this section for the creation of a birth certificate or a certified copy of a marriage certificate.		
' (5)	In this section—	30	

	<i>evidence</i> means evidence similar to that ordinarily produced or given by the issuing agency.	1 2
'146ZC Go	overnment issuing agency to comply with request	3
	'The chief executive officer of a government issuing agency who receives a request under section 146ZB must comply with the request within the reasonable period stated in the request.	4 5 6 7
	on-government issuing agency may comply with luest	8 9
	'The chief executive officer of a non-government issuing agency who receives a request under section 146ZB may comply with the request.	10 11 12
'146ZE Ca	ncelling evidence of assumed identity	13
'(1)	The chief executive officer of an issuing agency who produces evidence of an assumed identity under this part must cancel the evidence if directed in writing to do so by the chairperson.	14 15 16
' (2)	In this section—	17
	<i>cancel</i> includes delete or alter an entry in a record of information.	18 19
'Subdivi	sion 3 Protections and indemnities	20
	otection from criminal responsibility—officer of uing agency	21 22
'(1)	A person who does something under subdivision 1 or 2 that, apart from this section, would be an offence, is not criminally responsible for the offence, if the thing is done to give effect to a birth certificate approval.	23 24 25 26
'(2)	Also, the chief executive officer, or an officer, of an issuing agency who does something that, apart from this section,	27 28

would be an offence, is not criminally responsible for the 29

	offence if the thing is done to comply with a request under section 146ZB or a direction under section 146ZE.	1 2
	lemnity for issuing agency and officers in relation creation of birth certificates	3 4
'(1)	This section applies if a birth certificate approval is produced to the registrar-general under section 146Z. ⁴⁸	5 6
'(2)	The commission must indemnify the registrar-general, or an officer of the registrar-general, for any civil liability incurred by the registrar-general or officer, including reasonable costs, if—	7 8 9 10
	 (a) the liability is incurred because of something done by the registrar-general or officer to comply with section 146Z; and 	11 12 13
	(b) the requirements, if any, prescribed under a regulation have been met.	14 15
ʻ146ZH Inc to c	lemnity for issuing agency and officers in relation other evidence of assumed identities	16 17
'(1)	This section applies if the chairperson makes a request under section 146ZB or gives a direction under section 146ZE to the chief executive officer of an issuing agency.	18 19 20
'(2)	The commission must indemnify the issuing agency, or an officer of the agency, for any civil liability incurred by the agency or officer, including reasonable costs, if—	21 22 23
	 (a) the liability is incurred because of something done by the agency or officer to comply with the request or direction in the course of duty; and 	24 25 26
	(b) the requirements, if any, prescribed under a regulation have been met.	27 28

⁴⁸ Section 146Z (Giving effect to birth certificate approval)

'146ZI Protection from criminal responsibility for particular ancillary conduct

'(1) This section applies to conduct, for example aiding or enabling the commission of an offence or conspiring to commit an offence (*ancillary conduct*), for which a person may be criminally responsible because it involves conduct engaged in by another person for which the other person would, apart from section 146ZF, be criminally responsible (the *related conduct*).

Note—

s 92

The Criminal Code, section 7(1)(b) and (c) makes provision for a person11who aids or enables the commission of an offence, and the Criminal12Code, chapter 56, makes provision for conspiracy.13

·(2) Despite any other Act or law, a person who engages in 14 ancillary conduct that is an offence, whether or not the person 15 is an authorised person or an officer of an issuing agency, is 16 not criminally responsible for the offence if at the time the 17 person engaged in the ancillary conduct the person believed 18 the related conduct was being engaged in, or would be 19 engaged in, by an authorised person or an issuing officer of an 20agency. 21

Division 4 Effect of auth	orities
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'146ZJ As	sumed identity may be acquired and used	23
'(1)	An authorised identity officer may acquire or use an assumed identity if the acquisition or use is—	
	(a) in accordance with an authority; and	26
	(b) in the course of duty.	27
'(2)	An authorised civilian may acquire or use an assumed identity if the acquisition or use is in accordance with—	
	(a) an authority; and	30
	(b) the directions of the authorised civilian's supervisor.	31

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	otect rson	ion f	rom criminal responsibility—authorised	1 2
	'If an authorised person does something that, apart from this section, would be an offence, the authorised person is not criminally responsible for the offence if—(a) the thing is done in the course of acquiring or using an assumed identity under an authority; and			3 4 5
				6 7
	(b)	the	thing is done—	8
		(i)	for an authorised identity officer—in the course of duty; or	9 10
		(ii)	for an authorised civilian—in accordance with the directions of the authorised civilian's supervisor; and	11 12 13
	(c)		ng the thing would not be an offence if the assumed ntity were the authorised person's real identity.	14 15
'146ZL Inc	lemn	ity fo	or authorised person	16
' (1)	This	secti	on applies if the chairperson grants an authority.	17
'(2)	The commission must indemnify the authorised person under the authority against any civil liability, including reasonable costs, incurred by the person, because of something done by the person if—			18 19 20 21
	(a)		thing is done in the course of acquiring or using an used identity under the authority; and	22 23
	(b)	the	thing is done—	24
		(i)	for an authorised identity officer—in the course of duty; or	25 26
		(ii)	for an authorised civilian—in accordance with the directions of the authorised civilian's supervisor; and	27 28 29
	(c)		requirements, if any, prescribed under a regulation e been met.	30 31

·(3)	This section does not limit the <i>Police Service Administration</i> <i>Act 1990</i> , section 10.5.49		
'146ZM Pa	articular qualifications	3	
' (1)	Sections 146ZK and 146ZL do not apply to anything done by an authorised person if—	4 5	
	(a) a particular qualification is needed to do the thing; and	6	
	(b) the person does not have the qualification.	7	
·(2)	Subsection (1) applies whether or not the authorised person has acquired, as evidence of an assumed identity, a document that indicates that the person has the qualification.	8 9 10	
	fect of being unaware of variation or cancellation authority	11 12	
'(1)	If an authority to acquire or use an assumed identity has been varied in a way that limits its scope, this part continues to apply to the authorised person to whom the authority relates as if it had not been varied in that way, for as long as the person—	13 14 15 16 17	
	(a) is unaware of the variation; and	18	
	(b) is not reckless about the existence of the variation.	19	
'(2)	If an authority to acquire or use an assumed identity has been cancelled, this part continues to apply to the authorised person to whom the authority related as if it had not been cancelled, for as long as the person—	20 21 22 23	
	(a) is unaware of the cancellation; and	24	
	(b) is not reckless about the existence of the cancellation.	25	
' (3)	For this section, a person is reckless about the existence of the variation or cancellation of an authority if—	26 27	

the person is aware of a substantial risk that the variation (a) 28 or cancellation has happened; and 29

		Amendment Bill 2006	
	(b)	having regard to the circumstances known to the person, it is unjustifiable to continue to use the assumed name in a way that was, but may no longer be, authorised by the authority because of the variation or cancellation.	1 2 3 4
'Division	5	Misuse of assumed identity and information	5 6
'146ZO Mis	suse	of assumed identity	7
' (1)	An a	authorised identity officer commits an offence if-	8
	(a)	the official intentionally, knowingly or recklessly acquires evidence of, or uses, an assumed identity covered by the officer's authority; and	9 10 11
	(b)	the official knows that, or is reckless as to whether, the acquisition or use is not—	12 13
		(i) in accordance with the officer's authority; or	14
		(ii) in the course of duty.	15
	Max	imum penalty—2 years imprisonment.	16
' (2)	An a	authorised civilian commits an offence if—	17
	(a)	the person intentionally, knowingly or recklessly acquires evidence of, or uses, an assumed identity covered by the person's authority; and	18 19 20
	(b)	the person knows that, or is reckless as to whether, the acquisition or use is not in accordance with—	21 22
		(i) the person's authority; or	23
		(ii) the directions of the person's supervisor under the authority.	24 25
	Max	ximum penalty—2 years imprisonment.	26
' (3)	This	s section does not limit section 213.50	27

'146ZP Dis	closing information about assumed identity	1
' (1)	A person commits an offence if—	2
	(a) the person intentionally, knowingly or recklessly discloses any information; and	3 4
	(b) the person knows that, or is reckless as to whether, the information reveals, or is likely to reveal, that an assumed identity acquired or used by another person is not the other person's real identity; and	5 6 7 8
	(c) the person knows that, or is reckless as to whether, the disclosure is not made—	9 10
	(i) in connection with the administration or execution of this part; or	11 12
	 (ii) for the purposes of any legal proceeding arising out of or otherwise related to this part or of any report of the proceedings; or 	13 14 15
	(iii) in accordance with any requirement imposed by law.	16 17
	Maximum penalty-2 years imprisonment.	18
·(2)	A person commits a crime if the person commits an offence against subsection (1) in circumstances in which the person—	19 20
	(a) intends to endanger the health or safety of any person or prejudice the effective conduct of an investigation or intelligence gathering in relation to misconduct; or	21 22 23
	(b) knows that, or is reckless as to whether, the disclosure of the information—	24 25
	(i) endangers or will endanger the health or safety of any person; or	26 27
	 (ii) prejudices or will prejudice the effective conduct of an investigation or intelligence gathering in relation to misconduct. 	28 29 30
	Maximum penalty-10 years imprisonment.	31
' (3)	This section does not affect section 213.	32

'Division	6	Reporting and record keeping	1	
'146ZQ Report about authorities for assumed identities etc.				
·(1)	chair writt	oon as practicable after the end of each financial year, the rperson must give to the parliamentary commissioner a ten report containing the following information in relation e commission for the financial year—	3 4 5 6	
	(a)	the number of authorities granted;	7	
	(b)	a general description of the activities undertaken by authorised persons when using assumed identities under this part;	8 9 10	
	(c)	the number of applications for an authority that were refused;	11 12	
	(d)	a statement about whether or not any fraud or other unlawful activity was identified by an audit under section 146ZS;	13 14 15	
	(e)	any other information relating to authorities, assumed identities or the administration of this part that the parliamentary commissioner considers appropriate.	16 17 18	
'(2)		report must not contain information that, if made public, d reasonably be expected to—	19 20	
	(a)	endanger a person's safety; or	21	
	(b)	prejudice an investigation or prosecution; or	22	
	(c)	compromise any law enforcement agency's operational activities or methodologies.	23 24	
'(3)	repo	parliamentary commissioner must table a copy of the rt in the Legislative Assembly within 14 sitting days after iving the report.	25 26 27	
'(4)	This	section does not limit section 64.51	28	

'146ZR Re	cord	keeping	1
' (1)		chairperson must keep appropriate records about the mission's operations under this part.	2 3
'(2)	(2) The records must contain all of the following information about each authority granted under this part in relation to the commission—		
	(a)	the date on which the authority was granted and the name of the person who granted it;	7 8
	(b)	if the authority was varied or cancelled under this part—the date it was varied or cancelled, and the name of the person who varied or cancelled it;	9 10 11
	(c)	the name of the authorised person under the authority;	12
	(d)	details of the assumed identity to which the authority relates;	13 14
	(e)	details of any request made to an issuing agency under section 146ZB ⁵² in relation to the authority;	15 16
	(f)	the general nature of the duties undertaken by the authorised person under the assumed identity;	17 18
	(g)	general details of relevant financial transactions entered into using the assumed identity;	19 20
	(h)	details of reviews of the authority under section 146X.53	21
'146ZS Au	dit of	records	22
'(1)	146Z	chairperson must have the records kept under section ZR for each authority granted in relation to the mission audited by the parliamentary commissioner—	23 24 25
	(a)	at least once every 6 months while the authority is in force; and	26 27
	(b)	at least once in the 6 months after the cancellation or expiry of the authority.	28 29

Section 146ZB (Request for evidence of assumed identity)

Section 146X (Review of authority)

'(2)	The parliamentary commissioner must give the chairperson a written report of the results of the audit.	1 2
'Division	7 Delegation	3
'146ZT Del	egation generally	4
	'Other than as provided by this part, and despite any other Act or law to the contrary, the powers of the chairperson under this part may not be delegated to any other person.	5 6 7
'146ZU Del	legation—chairperson	8
'(1)	The chairperson may delegate any of the chairperson's powers under this part relating to the following to an assistant commissioner—	9 10 11
	(a) the granting, variation and cancellation of authorities;	12
	(b) conducting reviews under section 146X;	13
	(c) authorising the making of an application to the independent member for a birth certificate approval for an assumed identity;	14 15 16
	(d) making requests under section 146ZB.	17
·(2)	Also, the chairperson may delegate to an authorised commission officer the chairperson's power under section 146Y to apply to the independent member for authority to create a birth certificate for an assumed identity.	18 19 20 21
'(3)	No more than 4 delegations may be in force under this section at any time.'.	22 23
93 Am	endment of s 255 (Secondment of officers)	24
(1)	Section 255(5)—	25
	renumber as section 255(6).	26
(2)	Section 255—	27
	insert—	28

Clause

		'(5)	Without limiting section 174(2), a police officer seconded to the commission under this section continues to be a police officer for all purposes and to have the functions and powers of a police officer without being limited to the performance of the commission's functions.	1 2 3 4 5
			Example for subsection (5)—	6
			A police officer seconded to the commission may exercise the powers of a police officer under the <i>Police Powers and Responsibilities Act 2000</i> for an investigation of alleged misconduct involving a relevant offence as defined in section 197ZI of that Act.'.	7 8 9 10
Clause	94		nendment of s 381 (Transitional provisions for thorities for birth certificates)	11 12
		(1)	Section 381(2), 'an authority given under new section 146F'—	13 14
			omit, insert—	15
			'a birth certificate approval'.	16
		(2)	Section 381(3)(a), 'section 146G'—	17
			omit, insert—	18
			'section 146Z'.	19
		(3)	Section 381—	20
			insert—	21
		'(4)	Also, new section 146ZG applies in relation to the creation of the birth certificate as if the birth certificate had been created under new section 146Z.'.	22 23 24
Clause	95		nendment of s 382 (Identity documents other than birth rtificates)	25 26
			Section 382(2)—	27
			omit, insert—	28
		·(2)	New sections 146ZF, 146ZH and 146ZI apply to the document as if it had been produced under a request under section 146ZB.'.	29 30 31

Police Powers and Responsibilities and Other Acts Amendment Bill 2006

Clause	96	Amendment of sch 2 (Dictionary)	1
		Schedule 2—	2
		insert—	3
		'acquire, for chapter 3, part 6B, div 1, see section 146Q.	4
		agency, for chapter 3, part 6B, div 1, see section 146Q.	5
		<i>authorised civilian</i> , for chapter 3, part 6B, div 1, see section 146Q.	6 7
		<i>authorised identity officer</i> , for chapter 3, part 6B, div 1, see section 146Q.	8 9
		<i>authorised person</i> , for chapter 3, part 6B, div 1, see section 146Q.	10 11
		authority, for chapter 3, part 6B, div 1, see section 146Q.	12
		<i>birth certificate approval</i> , for chapter 3, part 6B, div 1, see section 146Q.	13 14
		<i>conduct</i> , for chapter 3, part 6B, div 1, see section 146Q.	15
		doing a thing, for chapter 3, part 6B, div 1, see section 146Q.	16
		evidence, for chapter 3, part 6B, div 1, see section 146Q.	17
		<i>government issuing agency</i> , for chapter 3, part 6B, div 1, see section 146Q.	18 19
		<i>issuing agency</i> , for chapter 3, part 6B, div 1, see section 146Q.	20 21
		<i>non-government issuing agency</i> , for chapter 3, part 6B, div 1, see section 146Q.	22 23
		officer, for chapter 3, part 6B, div 1, see section 146Q.	24
		use, for chapter 3, part 6B, div 1, see section 146Q.'.	25

s 97

	Par	Part 5		Amendment of Domestic and Family Violence Protection Act 1989	
Clause	97	Ac	t ame	ended in part 5	4
				part amends the <i>Domestic and Family Violence ection Act 1989.</i>	5 6
Clause	98			nent of s 47 (Service of application on respondent accompanied by summons)	7 8
			Sect	ion 47—	9
			inse	rt—	10
		'(8)	offic and	ammons under this section need not be issued if a police cer who makes an application for a protection order, issues serves on the respondent a notice in the form of a notice to ear under the <i>Police Powers and Responsibilities Act 2000</i> .	11 12 13 14
		' (9)	A no	otice mentioned in subsection (8)—	15
			(a)	need not state an alleged offence as required under the <i>Police Powers and Responsibilities Act 2000</i> ; and	16 17
			(b)	is taken, for section 49, to be a summons.'.	18
Clause	99	Am	nendr	ment of s 49 (Non-appearance of respondent)	19
			Sect	ion 49(1)(c), after 'released from the'—	20
			inse	rt—	21
			'hol	ding cell or'.	22
Clause	100		nendr ident	ment of s 69 (Presence at domestic violence :)	23 24
		(1)	Sect	ion 69(2)(c), 'watch-house manager'—	25
			omit	t, insert—	26
			'app	ropriate police officer'.	27

		(2)	Section 69(3), 'watch-house manager'—	1
			omit, insert—	2
			'appropriate police officer'.	3
Clause	101		placement of s 70 (Duty of police officer who has taken erson into custody under s 69)	4 5
			Section 70—	6
			omit, insert—	7
	'70		ty of police officer who has taken a person into stody under s 69	8 9
		' (1)	If a person is taken into custody under section 69(1), the police officer who took the person into custody must, as soon as reasonably practicable, deliver the person into the custody of—	10 11 12 13
			(a) the officer-in-charge of a police station at which there is a holding cell; or	14 15
			(b) a watch-house manager.	16
		'(2)	If the person is taken to a holding cell at a police station, the officer-in-charge of the police station must ensure the person's particulars are entered, as required under a regulation, in the register kept at the police station for the purpose.	17 18 19 20
		·(3)	If the person is taken to a watch-house, the watch-house manager must ensure the person's particulars are entered, as required under a regulation, in the register kept at the watch-house for the purpose.	21 22 23 24
		'(4)	The person's particulars must be entered in the relevant register as soon as possible after the person arrives at the police station or watch-house.	25 26 27
		·(5)	The police officer who took the person to the relevant place must confirm the entry in the register relating to the person's particulars by signing it.'.	28 29 30

S (102
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Clause	102	Amendment of s 71 (Police officer must apply for protection order etc.)	1 2
		(1) Section 71(3)(d), 'watch-house manager'—	3
		omit, insert—	4
		'appropriate police officer'.	5
		(2) Section 71(4), 'watch-house manager'—	6
		omit, insert—	7
		'appropriate police officer'.	8
Clause	103	Amendment of s 75 (Entry of registers)	9
		Section 75(1)(b), after 'and at the'—	10
		insert—	11
		'holding cell or'.	12
Clause	104	Amendment of sch (Dictionary)	13
		Schedule—	14
		insert—	15
		<i>`appropriate police officer</i> means—	16
		(a) the officer in charge of a police station; or	17
		(b) a watch-house manager.	18
		<i>holding cell</i> means a cell at a police station or a police establishment other than a watch-house.'.	19 20

Part 6	Amendment of Drugs Misuse	21
	Act 1986	22

Clause	105	Act amended in pt 6	23
		This part amends the Drugs Misuse Act 1986.	24

Clause	106 In	sertion of new ss 122A–122C	1
		After section 122—	2
		insert—	3
	'122A Pa	articular proceedings for minor drugs offences	4
	'(1)	This section applies to a proceeding for an offence against this Act that is a minor drugs offence as defined in the <i>Police Powers and Responsibilities Act 2000</i> , schedule 4.	5 6 7
	'(2)	However, this section applies only if the person charged with having committed the minor drugs offence pleads guilty to the offence.	8 9 10
	'(3)	The court may, if the person is eligible under the <i>Police</i> <i>Powers and Responsibilities Act 2000</i> , section 211 to be offered an opportunity to attend a drug diversion assessment program, order the person to attend, and complete, a drug diversion assessment program as directed by a police officer.	11 12 13 14 15
	'(4)	Before making the order, the court must inform the defendant that if the court makes the order and the defendant fails to attend and complete the drug diversion assessment program, the defendant will be dealt with by the court as if the order had not been made.	16 17 18 19 20
	'(5)	The court may also make any other order the court considers appropriate for ensuring the defendant's attendance at the drug diversion assessment program, including an order requiring the provider of the drug diversion assessment program to give the court a report about the defendant's attendance at and completion of the drug diversion assessment program.	21 22 23 24 25 26 27
	'(6)	On the making of the orders under this section the proceeding against the defendant is adjourned until a date fixed by the court or a date to be fixed.	28 29 30
	ʻ122B Pı	rovision of information to court	31
	'(1)	If the court makes an order under section 122A and a police officer arranges for the defendant to attend a drug diversion	32 33

assessment program, the police officer must inform the provider of the drug diversion assessment program that the 35

	provider must, as required by the court's order under section 122A, give the court a written report about—	1 2
	(a) the person's attendance at, and completion of, the program; or	3 4
	(b) if the person failed to attend or complete the program—the person's failure to attend or complete the program.	5 6 7
'(2)	The provider of the drug diversion program may give the court the report by filing the report with the court and giving a copy of the report to the commissioner.	8 9 10
' (3)	The commissioner must ensure a copy of the report is given to the prosecuting authority and the person's lawyer.	11 12
'(4)	In this section—	13
	<i>prosecuting authority</i> means the entity responsible for prosecuting the charge of the minor drugs offence.	14 15
	rther consideration of charge of minor drugs ence	16 17
'(1)	If, after considering a report filed under section 122B, the court is satisfied the defendant attended and completed the drug diversion assessment program as required under section 122A, the court must strike out the proceeding for the charge of the minor drugs offence.	18 19 20 21 22
·(2)	However, if the court is satisfied the defendant did not attend	23

However, if the court is satisfied the defendant did not attend and complete the drug diversion assessment program as required under section 122A, the court may continue to hear the charge of the minor drugs offence and may make any order in relation to the offence the court considers appropriate.'.

	Part	7	Amendment of Evidence Act 1977	1 2
Clause	107	Act	t amended in pt 7 and references	3
		(1)	This part amends the Evidence Act 1977.	4
		(2)	Also, a reference in this part to section 21G or 21KE is a reference to the section as inserted by the <i>Cross-Border Law Enforcement Legislation Amendment Act 2005</i> , section 51.	5 6 7
Clause	108		nendment of s 21G (Form of witness identity protection rtificate)	8 9
			Section 21G(1), after 'a proceeding must'—	10
			insert—	11
			'be in the approved form and'.	12
Clause	109		nendment of s 21KE (Review of giving of witness network of police service)	13 14
			Section 21KE(3)(c)(iv)—	15
			renumber as section 21KE(3)(c)(ii).	16
Clause	110		nendment of s 54 (Proof of identity of a person nvicted)	17 18
			Section 54—	19
			insert—	20
		' (3)	In this section—	21
			<i>fingerprint</i> means an image or impression of friction ridge detail from the palmar surface of a person's hand and includes a digital image of the friction ridge detail from the palmar surface of a person's hand.'.	22 23 24 25

	Par	t 8	Amendment of Police Service Administration Act 1990	1 2
Clause	111	Ac	t amended in pt 8	3
			This part amends the Police Service Administration Act 1990.	4
Clause	112	Am	nendment of s 1.4 (Definitions)	5
			Section 1.4—	6
			insert—	7
			<i>watch-house officer</i> see section 4.9(6).'.	8
Clause	113	Am	nendment of s 4.9 (Commissioner's directions)	9
		(1)	Section 4.9(4)—	10
			renumber as section 4.9(5).	11
		(2)	Section 4.9—	12
			insert—	13
		'(4)	A direction issued under subsection (1) to officers about functions, powers or responsibilities that are also functions, powers or responsibilities of watch-house officers is taken to be also issued to watch-house officers.'.	14 15 16 17
		(3)	Section 4.9—	18
			insert—	19
		'(6)	In this section—	20
			<i>watch-house officer</i> means a staff member who is appointed by the commissioner to be a watch-house officer.'.	21 22
Clause	114	Ins	ertion of new pt 5, div 1, hdg	23
			Part 5, before section 5.1—	24

			insert—		1
	'Divi	sion	1	Officers and other police personnel'.	2 3
Clause	115	Inse	ertion of	new pt 5, div 2	4
			Part 5, a	fter section 5.17—	5
			insert—		6
	'Divi	sion	2	Watch-house officers	7
	'5.18	Арр	pointme	nt of watch-house officers	8
		'(1)	person v	tion applies if the commissioner proposes to appoint a who is or is to become a staff member to be a buse officer.	9 10 11
		'(2)	commiss qualifica	mmissioner may appoint the person only if the sioner is satisfied the person has appropriate tions and experience for performing the functions of house officer.	12 13 14 15
		'(3)	appointn	on has appropriate qualities and experience for nent as a watch-house officer only if the sioner is satisfied the person—	16 17 18
			• •	s completed a course of training approved by the mmissioner for the purpose; or	19 20
			exp	ssesses appropriate qualifications, standing and perience for performing the functions of a tch-house officer.	21 22 23
			Note—		24
			section affect manage	tembers are appointed under the <i>Public Service Act 1996</i> or 8.3(5) and are not police officers. Also, this section does not the powers of the commissioner to appoint watch-house rs. For the definition <i>watch-house manager</i> , see the <i>Police and Responsibilities Act 2000</i> , schedule 4.	25 26 27 28 29
Clause	116	Am	endmen	t of s 5A.2 (Definitions for pt 5A)	30

Section 5A.2—

		<i>insert</i> — <i>`analyst</i> means a person who, under section 5A.4A, is appointed as an analyst. ⁵⁴ '.	1 2 3
Clause	117	Insertion of new s 5A.4A	4
		After section 5A.4—	5
		insert—	6
	'5 A .4/	A Analysts	7
		'The Minister may, by gazette notice, appoint as an analyst for this part, a person the Minister is satisfied has appropriate qualifications, standing and experience to be an analyst for this part.'.	8 9 10 11
Clause	118	Amendment of sch (Relevant information)	12
		Schedule, entry for information about staff members, applicants to become staff members, volunteers and students on work experience, item 2, 'in QPS'—	13 14 15
		omit, insert—	16
		'in a QPS'.	17

Part 9Other Acts amended18

Clause	119	Acts amended in sch 2	19
		Schedule 2 amends the Acts it mentions.	20

Schedule 1			Minor amendments of Police Powers and Responsibilities Act 2000	
			section 3	4
1		3), 'proposed to be appointed'—		5
	omit.			6
2	Section 19(1)(d), ', 318D'—		7
	omit.			8
3	Section 21(1)(a) and (b), '; or'—		9
	omit, insert—	-		10
	'; and'.			11
4	Chapter 2, p	oart 4, heading, 'move-on'—		12
	omit, insert—	-		13
	'move on'.			14
5	Section 49(3), after 'police establishment'—		15
	insert—			16
	'or police stat	tion'.		17
6	Section 49(4), 'police establishment'—		18
	omit, insert—	-		19
	'place'.			20
7	Section 59L	.X(4)(a)—		21
	omit, insert—			22

Schedule 1 (continued)

	(a) the <i>Juvenile Justice Act 1992</i> , section 260 does not apply to that order; and'.	1 2
8	Section 59LY(1), 'an impounded motor vehicle'—	3
	omit, insert—	4
	'a motor vehicle impounded under this chapter'.	5
9	Section 68(1)(c), from 'is to be'—	6
	omit, insert—	7
	'is or is to be impounded under chapter 2B or 11A.55'.	8
10	Section 82, ' <i>Example</i> —'—	9
	omit, insert—	10
	'Examples—'.	11
11	Section 197ZI(3)(a)(ii), 'by a', second mention—	12
	omit.	13
12	Section 209(4), ' <i>Example</i> '—	14
	omit, insert—	15
	'Examples'.	16
13	Section 230(1)(a), 'an offence'—	17
	omit, insert—	18
	'a charge of an offence'.	19

⁵⁵ Chapter 2B (Motor vehicle impounding powers for prescribed offences and motorbike noise direction offences) or 11A (Provisions about evading police officers)

	Schedule 1 (continued)	
14	Section 243, heading, after 'establishment'—	1
	insert—	2
	'or police station'.	3
15	Section 243, after 'establishment'—	4
	insert—	5
	'or police station'.	6
16	Section 295(1), 'a person, other than a child,'—	7
	omit, insert—	8
	'an adult'.	9
17	Section 296, 'a person, other than a child,'—	10
	omit, insert—	11
	'an adult'.	12
18	Section 298(1), 'a person other than a child'—	13
	omit, insert—	14
	'an adult'.	15
19	Section 318H(4), from 'section 314' to 'or the results'—	16
	omit, insert—	17
	'section 315 or the results'.	18
20	Section 318ZF(6), definition <i>reporting notice</i> , from 'sample notice'—	19 20
	omit, insert—	20 21
		<i>4</i> 1

'sample notice or non-medical examination notice.'.

22

Schedule 1 (continued)	
Section 347(1)(b), 'officer's'—	1
omit, insert—	2
'person's'.	3
Section 367A(4), 'subsection (4)'—	4
omit, insert—	5
'subsection (5)'.	6
Section 368, ' <i>Example</i> —'—	7
omit, insert—	8
'Examples—'.	9
Section 381, 'Unless'—	10
omit, insert—	11
(1) Unless'.	12
Section 447A, heading, 'Assisting coroner to'—	13
omit, insert—	14
'Helping coroner'.	15
Section 447A(1), 'assist'—	16
omit, insert—	17
'help'.	18
Section 448, 'Assistance to'—	19
omit, insert—	20
'Helping'.	21
	Section 347(1)(b), 'officer's'— omit, insert— 'person's'. Section 367A(4), 'subsection (4)'— omit, insert— 'subsection (5)'. Section 368, 'Example—'— omit, insert— 'Examples—'. Section 381, 'Unless'— omit, insert— '(1) Unless'. Section 447A, heading, 'Assisting coroner to'— omit, insert— 'Helping coroner'. Section 447A(1), 'assist'— omit, insert— 'help'. Section 448, 'Assistance to'— omit, insert—

Schedule 2		Other Acts amended	1
		section	119 2
Aus	tralian Crim	e Commission (Queensland) Act 20	03 3
1	Section 29(9 omit.	9)(b), 'he or she'—	4 5
2	Section 62(a omit, insert— 'effect; and'.	a), 'effect;'—	6 7 8
Sun	nmary Offen	ces Act 2005	9
1	Section 28(2 omit, insert— 'Note—'.	2), example, 'Example—'—	10 11 12
2	Part 4, head	ling, 'and amendments'—	13 14

Schedule 2 (continued)

Tow Truck Act 1973

1	Section 4, definition <i>seized</i> , from 'section 60' to 'of that Act'—	
	omit, insert—	4
	'section 59Y because of section 59Z(d) or (e) of that Act'.	5

Weapons Act 1990

1	Section 37, after 'serial number'—	7
	insert—	8
	', if any'.	9
2	Section 104(5)(b), 'the specified'—	10
	omit, insert—	11
	'on the specified'.	12
3	Section 105(3)(b), 'the specified'—	13
	omit, insert—	14
	'on the specified'.	15
4	Section 106(1)(b), 'loss of life'—	16
	omit, insert—	17
	'death'.	18

Schedule 2 (continued)

5	Section 106(4)(b), 'the specified'—	
	omit, insert—	2
	'on the specified'.	3
6	Section 185, second occurrence—	4
	renumber as section 186.	5
7	Schedule 2, definition <i>category M crossbow</i> , ' <i>(Categories)</i> '—	6 7
	omit, insert—	8
	'Categories'.	9

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