

Queensland



**POLICE AND OTHER
LEGISLATION
(MISCELLANEOUS
PROVISIONS) ACT 1998**

Act No. 19 of 1998

Queensland



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(MISCELLANEOUS PROVISIONS) ACT
1998**

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SCHEDULE 45

**MINOR AMENDMENTS OF THE CRIME COMMISSION ACT
1997**

Queensland



**Police and Other Legislation (Miscellaneous
Provisions) Act 1998**

Act No. 19 of 1998

**An Act to amend a number of Acts affecting the powers and
responsibilities of police officers, and for other purposes**

[Assented to 26 March 1998]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Police and Other Legislation (Miscellaneous Provisions) Act 1998*.

Commencement

2.(1) Section 14¹ commences on 6 April 1998.

(2) Section 18² is taken to have commenced on 25 January 1995.

(3) Section 19³ commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF POLICE SERVICE ADMINISTRATION ACT 1990

Act amended in pt 2

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

Amendment of s 1.4 (Definitions)

4. Section 1.4—

insert—

¹ Section 14 (Amendment of s 10.22 (Apprehension etc. of offenders against Act))

² Section 18 (Amendment of s 32 (Forfeiture of dangerous drugs))

³ Section 19 (Insertion of new pt 5B)

‘ **“handler”**, of a police dog, means an officer whose duties include handling a police dog.

“marked print” means a print of a photograph, marked in a way that highlights—

- (a) features or aspects of the subject of the print; or
- (b) points of similarity between the subject of the print and the subject of another print.

“member of the service” see section 2.2.⁴

“police dog” means a dog kept by the commissioner for helping police officers perform the duties of police officers.

Example—

A dog trained as a sniffer dog to help find illegal drugs.

“police horse” means a horse kept by the commissioner for use by officers when performing the duties of police officers.

“print” means a print of a photograph or part of a photograph, and includes a marked print and an audio recording of an interview.’.

Amendment of s 4.8 (Commissioner’s responsibility)

5. Section 4.8(2)(t), after ‘records’—

insert—

‘, including, but not limited to, records about—

- (i) the action taken by a police officer or someone else in relation to a person suspected of having committed an offence; and
- (ii) the result of any proceeding against the person for the offence.’.

⁴ Section 2.2 (Membership of service)

Amendment of s 7.1 (Responsibility for command)**6. Section 7.1—***insert—*

‘(2) For subsection (1)(e), any length of service other than as a police officer that is counted as continuous service under section 5.14⁵ must be disregarded.’

Amendment of s 7.2 (Duty concerning misconduct or breaches of discipline)**7. Section 7.2—***insert—*

‘(3) The commissioner may, by written instrument, exempt stated officers or staff members who have or are likely to have knowledge of conduct that is an alleged contravention of the *Anti-Discrimination Act 1991* from compliance with subsection (2), generally or on stated conditions.

‘(4) The commissioner may give an exemption under subsection (3) only if the commissioner is reasonably satisfied giving the exemption will not adversely affect the welfare of the officers or staff members affected by or involved in the conduct.

‘(5) However, if a person is given an exemption generally because the person is likely to have knowledge of an alleged contravention of the *Anti-Discrimination Act 1991* and the person is the person against whom the complaint for the contravention is made, the exemption does not operate in relation to the complaint against the person.

‘(6) Also, the commissioner may, by written instrument, exempt an officer or staff member appointed to provide confidential professional counselling to officers and staff members from compliance with subsection (2), generally or on stated conditions.

‘(7) An exemption under subsection (6) only operates while the officer or staff member is providing professional counselling services in an official capacity.

⁵ Section 5.14 (Calculation of continuous service as officer)

‘(8) If a person is not required to report misconduct under subsection (2) because of an exemption under subsection (3), the commissioner also is not required to report the misconduct.’

Insertion of new pt 9A

8. After part 9—

insert—

‘PART 9A—POLICE PRINTS

‘Payment for prints

‘**9A.1(1)** A person for whom a print is made by or at the request of a police officer in the performance of the police officer’s duty under this Act or otherwise, must pay to the commissioner a reasonable amount for printing and supplying the print.

‘(2) If the person requires a marked print, the person must also pay to the commissioner a reasonable amount for marking the print.

‘(3) However, the commissioner may, in a particular case, decide not to charge an amount under subsection (1) or (2).

‘(4) In this section—

“**reasonable amount**”, for printing and supplying or marking a print, means a reasonable amount fixed by the commissioner, not more than the actual cost of producing and supplying, or marking, the print.

‘Entitlement to prints

‘**9A.2(1)** This section applies if the State or a police officer performing the police officer’s duties tenders a print as an exhibit in a proceeding before a court or tribunal.

‘(2) A person who satisfies the person who has custody of the print that the person requires a print identical to the print tendered for a prescribed

purpose⁶ is entitled to a print identical to the print tendered.

‘(3) This section does not entitle a person to a print the person requires for a proceeding started in a court or tribunal because of something alleged to have been done or not done by a police officer or a State employee in the performance of his or her duties, unless a print identical to the print required has been tendered as an exhibit in the proceeding.

‘Procedure to obtain print for prescribed purpose

‘9A.3(1) A person who requires a print mentioned in section 9A.2 (the “**tendered print**”) for a prescribed purpose may, in writing, ask the person who has custody of the print or, if it is a photograph, the negative of the print, to give to the person a print identical to the tendered print.

‘(2) The request must indicate the purpose for which the person requires the print.

‘(3) However, it is not necessary to supply the print unless the person asking for it pays any amount fixed for the print under section 9A.1.

‘(4) If the person who has custody of the negative is satisfied that the person making the request is entitled to the print and has paid any amount fixed for supplying the print, the person must cause the print to be made and supplied.

‘(5) A person does not incur any liability at law merely because of the printing, marking or supply of a print under this part.

‘What is a “prescribed purpose”

‘9A.4 For this part, each of the following is a prescribed purpose—

- (a) to answer a charge of an offence, the subject matter of or arising out of a proceeding in which a print identical to the print required is an exhibit;
- (b) for a proceeding started in a court or tribunal, whether it is the proceeding in which a print identical to the print required is an

⁶ Section 9A.4 (What is a “prescribed purpose”)

exhibit or another proceeding;

- (c) for deciding whether to start a proceeding in a court or tribunal or to make a particular claim in the proceeding;
- (d) for deciding whether to defend a proceeding that may be started in a court or tribunal or to make or resist a particular claim in the proceeding.’.

Amendment of s 10.2 (Authorisation of disclosure)

9. Section 10.2—

insert—

‘**(1B)** Also, subject to any regulation made under subsection (1A), the commissioner may impose conditions on the disclosure of information under this section.

‘**(1C)** A person to whom the information is disclosed must not contravene a condition imposed under subsection (1B).

Maximum penalty—40 penalty units.’.

Amendment of s 10.5 (Liability for tort generally)

10.(1) Section 10.5(1), (1A), (2) and (5), ‘or recruit’—

omit, insert—

‘, recruit or volunteer’.

(2) Section 10.5—

insert—

‘**(6)** In this section—

“**volunteer**” means a person appointed by the commissioner to perform duties for the service on an unpaid voluntary basis on conditions decided by the commissioner.’.

Amendment of s 10.9 (Service and production of documents)

11. Section 10.9(2), from ‘The holder’ to ‘subsection (1)’—

omit, insert—

‘Any member of the service’.

Amendment of s 10.12 (Legal proceedings)

12. Section 10.12(2)—

omit, insert—

‘(2) In a proceeding, an allegation or statement, in a complaint or another initiating process, or in a pleading or affidavit, of any of the following things is evidence of the thing alleged or stated—

- (a) a stated place is a police establishment or police station;
- (b) a stated thing is appropriated to the use of, or is used by, the police service or any officer or staff member in the officer’s or member’s official capacity;
- (c) a stated act, omission, conduct or breach of duty has not been authorised or consented to by the commissioner in relation to anything mentioned in paragraph (a) or (b);
- (d) stated property is the property of the commissioner under this Act.

‘(3) In a proceeding, a document signed by the commissioner and stating either of the following is evidence of the thing stated—

- (a) at a stated time or during a stated period a stated person was a police dog handler or mounted police officer;
- (b) at a stated time or during a stated period a dog or horse identified in the document was a police dog or police horse.

‘(4) If, in a proceeding, a person intends to question the power of an officer to act under a delegation given under this Act, the person must give to the commissioner notice of the intention at least 7 days before the power is questioned in the proceeding.’.

Insertion of new ss 10.21A–10.21B

13. After section 10.21—

insert—

‘Unlawful possession of prescribed articles

‘10.21A(1) A person must not unlawfully possess a prescribed article.

Maximum penalty—40 penalty units.

‘(2) A person must not unlawfully supply to someone else a prescribed article that is evidence of the commission of an offence.

Maximum penalty—40 penalty units.

‘(3) Subsection (2) does not prevent a person supplying a print, an audio recording, or a transcript of an audio or video recording, to a person charged with an offence of which the article is evidence or the person’s lawyer, for the purpose of enabling the person to defend the charge.

‘(4) A person must not possess a print, an audio recording, or a transcript of an audio or video recording supplied under subsection (3) after the time allowed for any appeal against a conviction for an offence of which the relevant article is evidence ends, unless the article is kept as part of court records or the records of a lawyer acting for the person charged with the offence.

Maximum penalty—40 penalty units.

‘(5) In this section—

“prescribed article” means any of the following that is the property of the commissioner—

- (a) a print;
- (b) a video recording;
- (c) a transcript of an audio or video recording.

‘Killing or injuring police dogs and police horses

‘10.21B(1) A person must not, without lawful excuse—

- (a) kill, maim, wound or otherwise injure a police dog or police

horse; or

- (b) attempt to kill, maim, wound or otherwise injure a police dog or police horse.

Maximum penalty—40 penalty units or 2 years imprisonment.

‘(2) The *Animals Protection Act 1925*, section 4(3)⁷ does not apply to a police dog under the control of a handler.

‘(3) A court that finds a person guilty of an offence against subsection (1) may, in addition to any penalty that may be imposed, order the person to pay to the commissioner a reasonable amount for—

- (a) the treatment, care, rehabilitation and retraining of the police dog or police horse concerned; or
- (b) if it is necessary to replace the police dog or police horse—buying and training its replacement.’.

Amendment of s 10.22 (Apprehension etc. of offenders against Act)

14. Section 10.22(1)(c)—

omit.

PART 3—AMENDMENT OF DRUGS MISUSE ACT 1986

Act amended in pt 3

15. This part amends the *Drugs Misuse Act 1986*.

Amendment of s 4 (Interpretation)

16.(1) Section 4, heading—

⁷ Section 4 (Offences of cruelty)

omit, insert—

‘Definitions’.

(2) Section 4(1), definition “**analyst**” —

omit, insert—

‘ “**analyst**” means a person who, under section 4C, is appointed as, or declared to be, an analyst.’.

(3) Section 4(2), as a heading—

insert—

‘Salts, derivatives and stereo-isomers’.

(4) Section 4(3), as a heading—

insert—

‘Construction of particular terms’.

(5) Section 4(2) and (3)—

renumber as sections 4A and 4B.

Insertion of new s 4C

17. Part 1, after section 4B (as numbered by this Act)—

insert—

‘Analysts

‘**4C.(1)** The Minister may, by gazette notice, appoint as an analyst for this Act, a person the Minister is satisfied has the qualifications, standing and experience necessary to be an analyst for this Act.

‘(2) Also, a regulation may declare a person who holds a stated appointment, qualification or other recognition under the law of another State or the Commonwealth as an analyst, whether that or another term is used, to be an analyst for this Act.’.

Amendment of s 32 (Forfeiture of dangerous drugs)

18.(1) Section 32(1)—

omit, insert—

‘**32.(1)** If a court is satisfied beyond reasonable doubt that anything produced to it and alleged by the person producing it to be any of the following is, or any part of it is, what it is alleged to be, the court may, on application made to it, order that all or any part of the thing be forfeited to the State—

- (a) a dangerous drug;
- (b) a chemical used or intended to be used in or for manufacturing a dangerous drug;
- (c) property contaminated by a chemical used in or for manufacturing a dangerous drug.

‘**(1A)** The application may be made in the absence of any other party.’.

(2) Section 32(2), ‘pursuant to subsection (1)’—

omit, insert—

‘in relation to a dangerous drug’.

(3) Section 32(4)(a), ‘dangerous drug’—

omit, insert—

‘thing mentioned in subsection (1)(a), (b) or (c)’.

Insertion of new pt 5B

19. After part 5A—

insert—

‘PART 5B—TRIAL PLANTING OF CANNABIS SATIVA FOR COMMERCIAL FIBRE PRODUCTION

‘Purpose of pt 5B

‘43W. The purpose of this part is to enable research to be carried out under controlled conditions into the suitability of low-level drug content cannabis sativa as a commercial fibre crop.

‘Exemption—trial planting of cannabis sativa for research purposes

‘43X.(1) A regulation may exempt a person from compliance with stated provisions of this Act for the time and on conditions stated in the regulation.

‘(2) The regulation may authorise a stated person to possess lawfully obtained seed of cannabis sativa that will produce low-level drug content cannabis sativa plants.

‘(3) However, a regulation for this section may only be made to enable the person to grow low-level drug content cannabis sativa and perform research functions, including plant-breeding, consistent with the purpose of this part.

‘(4) The exemption operates only if the conditions of the exemption are complied with.

‘(5) In this section—

“low-level” means—

- (a) for a plant of cannabis sativa used for plant breeding—the leaves and flowering heads of the plant contain not more than 1% of tetrahydrocannabinol; or
- (b) for a plant of cannabis sativa used for field trials—the leaves and flowering heads of the plant contain not more than 0.35% of tetrahydrocannabinol.

‘Expiry of pt 5B

‘43Y.(1) This part expires 3 years after it commences.

‘(2) However, a regulation made before the end of the 3 years may defer the expiry of this part, but only for 1 year.’.

Amendment of s 52A (Prescribed persons permitted to receive and dispose of dangerous drugs)

20. Section 52A—

insert—

‘(2) It is lawful for a person who—

- (a) as an officer or employee of the department within which the *Health Act 1937* is administered, performs duties that include duties as a property officer for the police service; and
- (b) is authorised by the chief health officer under that Act;

to possess a dangerous drug while actually performing the duties.

‘(3) It is lawful for a person who, as a staff member within the meaning of the *Police Service Administration Act 1990*, section 1.4,⁸ is performing the duties of a property officer in the police service, to possess a dangerous drug while actually performing the duties.’.

PART 4—AMENDMENT OF CRIMINAL CODE

Act amended in pt 4

21. This part amends the Criminal Code.

Insertion of new ss 426–427

22. Chapter 39, after section 425—

insert—

⁸ Section 1.4 (Definitions)

‘Unlawful entry of vehicle

‘426. A person who unlawfully enters another person’s vehicle commits an offence.

Maximum penalty—2 years imprisonment.

‘Unlawful entry of vehicle for committing indictable offence

‘427.(1) A person who unlawfully enters another person’s vehicle with intent to commit an indictable offence commits a crime.

Maximum penalty—10 years imprisonment.

‘(2) If—

- (a) the offence is committed in the night; or
- (b) the offender—
 - (i) uses or threatens to use actual violence; or
 - (ii) is or pretends to be armed with a dangerous or offensive weapon, instrument or noxious substance; or
 - (iii) is in company with 1 or more persons; or
 - (iv) damages, or threatens or attempts to damage, any property;

the offender is liable to imprisonment for 14 years.’.

Amendment of s 552B (Charges of indictable offences that may be dealt with summarily)

23.(1) Section 552B(1)—

insert—

‘(fa) an offence against section 427;⁹’.

⁹ Section 427 (Unlawful entry of vehicle for committing indictable offence)

(2) Section 552B(1)(g), ‘408A(1)’—
omit, insert—
‘408A’.

PART 5—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994

Act amended in pt 5

24. This part amends the *Environmental Protection Act 1994*.

Amendment of s 144 (Power to require name and address)

25. Section 144(1)—
insert—

‘(c) is about to give, is giving, or has given someone a noise abatement direction.’.

PART 6—AMENDMENT OF WEAPONS ACT 1990

Act amended in pt 6

26. This part amends the *Weapons Act 1990*.

Amendment of s 5 (Definitions)

27.(1) Section 5, definition “dealer”—
omit.

(2) Section 5—

insert—

‘ **“dealer”** means a person, other than an armourer or theatrical ordnance supplier, who—

- (a) carries on the business, whether or not for reward or benefit, of acquiring, selling or otherwise disposing of weapons in any way; or
- (b) for trade or business, displays a weapon for sale or possesses a weapon for sale.

“slingshot” means a device designed for use with, or a component of which is, a brace that fits or rests on a person’s forearm or another part of the person’s body to support the person’s wrist against the tension of elastic material used to propel a projectile.

Example—

A Saunders ‘Falcon’ Hunting Sling.’

(2) Section 5, definition **“firearm”**—

insert—

‘(g) a slingshot.’

(3) Section 5, definition **“security organisation”**, ‘an organisation which’—

omit, insert—

‘an entity that’.

Amendment of s 10 (Limitations on issue of licence)

28.(1) Section 10(2)—

insert—

‘(g) resides only in Queensland.’

(2) Section 10—

insert—

(2A) Subsection (2)(g) does not apply to a person who—

- (a) for a person who resides in State adjoining Queensland—
 - (i) satisfies the authorised officer that the person has a genuine reason for possessing a weapon for which a licence is required under this Act; and
 - (ii) is not disqualified from obtaining a similar licence in the adjoining State; or
- (b) for a person who resides in a State other than an adjoining State but whose main place of residence is Queensland—is not disqualified from obtaining a similar licence in the other State.

‘**(2B)** Also, subsection (2)(g) does not apply to a person who—

- (a) resides outside Queensland and intends visiting Queensland to engage in an activity that is a reason for possession of a weapon under section 11; and
- (b) is entitled by law (whether or not under a licence) to possess and use a firearm or type of firearm in the State or country where the person usually resides; and
- (c) applies for a licence prescribed under section 12(1)(k) for visitors to Queensland.’

(3) Section 10(4)(a)(ii), from ‘another’ to ‘weapons’—

omit, insert—

‘a course in safety training for weapons conducted in another State that the commissioner is satisfied is’.

(4) Section 10—

insert—

(9) In this section—

“**similar licence**”, for a weapon in an adjoining or other State, means a licence, permit or authority issued under the law of the other State entitling the person to possession of the weapon.’

Amendment of s 18 (Renewal of licences)

29. Section 18—

insert—

‘(8) Section 10(2) to (6) applies to the renewal of a licence with any necessary changes.’.

Amendment of s 29 (Revocation of licence)

30. Section 29—

insert—

‘(3) This section does not prevent an authorised officer reinstating a licence that is revoked by the authorised officer because of a mistake of fact.

Examples for subsection (3)—

1. J was charged with an offence and although no conviction was recorded for the offence, police records indicated a conviction had been recorded.

2. A was required to be a member of a pistol club but the club failed to tell the commissioner that A had joined the club before the revocation happened.

‘(4) A licence reinstated under subsection (3) is taken not to have been revoked.

‘(5) The licence may be reinstated by—

- (a) returning the licence; or
- (b) issuing a fresh licence.

‘(6) The authorised officer must also ensure any entry made in the firearms register because of the revocation is corrected.’.

Replacement of s 51 (Possession of a knife in night clubs)

31. Section 51—

omit, insert—

‘Possession of a knife in a public place

‘**51.(1)** A person must not physically possess a knife in a public place, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units or 6 months imprisonment.

‘(2) It is a reasonable excuse for subsection (1) to physically possess a knife—

- (a) to perform a lawful activity, duty or employment; or
- (b) to participate in a lawful entertainment, recreation or sport; or
- (c) for exhibiting the knife; or
- (d) for use for a lawful purpose.

Example for subsection (2)(a)—

1. A person may carry a knife on his or her belt for performing work in primary production.

Examples for subsection (2)(b)—

- 1. A scout may carry a knife on his or her belt as part of the scout uniform.
- 2. A person may carry a knife as an accessory while playing in a pipe band.
- 3. A fisher may carry a knife for use while fishing.

Example for subsection (2)(c)—

1. A person who collects knives may exhibit them at a fete or another public gathering.

Examples for subsection (2)(d)—

1. A person may use a knife to prepare or cut food at a restaurant in a public place or when having a picnic in a park.

2. A person may carry a pen knife or swiss army knife for use for its normal utility purposes.

‘(3) However, it is not a reasonable excuse to physically possess a knife in a public place for self-defence purposes.

‘(4) In deciding what is a reasonable excuse for subsection (1), regard may be had, among other things, to whether the way the knife is held in possession, or when and where it is held in possession, would cause a reasonable person concern that he or she, or someone else in the vicinity, may be threatened or harmed.

‘(5) In this section—

“**knife**” includes a thing with a sharpened point or blade that is reasonably capable of—

- (a) being held in 1 or both hands; and
- (b) being used to wound or threaten to wound anyone when held in 1 or both hands.’

Amendment of s 54 (Possession or use of weapon by unlicensed person in primary production sometimes allowed)

32.(1) Section 54(2), ‘use the weapon’—

omit, insert—

‘use a weapon’.

(2) Section 54(2)(b), ‘the weapon’—

omit, insert—

‘a weapon’.

Amendment of s 56 (Discharge of weapon on private land without owner’s consent prohibited)

33. Section 56(1), definition “**weapon**”, ‘and crossbow’—

omit, insert—

‘, crossbow and slingshot’.

Amendment of s 57 (Particular conduct involving a weapon in a public place prohibited)

34. Section 57(1), definition “**weapon**”, after paragraph (c)—

insert—

‘(d) a slingshot.’.

Amendment of s 58 (Dangerous conduct with weapon prohibited generally)

35. Section 58(1), definition “**weapon**”, after paragraph (d)—

insert—

‘(e) a slingshot.’.

Amendment of s 59 (Possession or use of weapon under the influence of liquor or a drug prohibited)

36.(1) Section 59(1), definition “**weapon**”, paragraph (b)—
renumber as section 59(1)(c).

(2) Section 59(1), definition “**weapon**”—

insert—

‘(b) a slingshot; and’.

Amendment of s 68 (Dealers to be licensed)

37. Section 68(1)—

omit, insert—

‘**68.(1)** A person must not deal in weapons in the course of business, unless the person is a licensed dealer.

‘Maximum penalty—

- (a) for a category D, H or R weapon—100 penalty units or 2 years imprisonment; and
- (b) for a category C or E weapon—60 penalty units or 1 year’s imprisonment; and
- (c) for a category A or B weapon—20 penalty units or 6 months imprisonment.’.

Amendment of s 69 (Armourers to be licensed)

38.(1) Section 69(1), as penalty—

insert—

‘Maximum penalty—

- (a) for a category D, H or R weapon—100 penalty units or 2 years

imprisonment; and

- (b) for a category C or E weapon—60 penalty units or 1 year’s imprisonment; and
- (c) for a category A or B weapon—20 penalty units or 6 months imprisonment.’.

(2) After section 69(1)—

insert—

‘(1A) A person who is not a licensed armourer must not manufacture a weapon.

‘Maximum penalty—

- (a) for a category D, H or R weapon—100 penalty units or 2 years imprisonment; and
- (b) for a category C or E weapon—60 penalty units or 1 year’s imprisonment; and
- (c) for a category A or B weapon—20 penalty units or 6 months imprisonment.’.

Amendment of s 71 (Licensed dealers and armourers to keep register)

39. Section 71(5), definition “**weapons register**”—

omit, insert—

‘ “**weapons register**” means—

- (a) a book in the approved form, bound in a way satisfactory to an authorised officer; or
- (b) a computer register approved by the commissioner.’.

Amendment of s 78 (Weapons not to be discharged or operated)

40. Section 78(2)—

omit.

Amendment of s 132 (Power to demand production of licence etc.)**41.** Section 132—*insert—*

‘(6) In subsections (2) and (4)—

“licence” means a card issued as a licence under this Act that shows the following—

- (a) the licensee’s photograph;
- (b) the licence number;
- (c) numbers and letters indicating licence conditions;
- (d) letters indicating the categories of weapons the licensee may possess.’.

Amendment of s 139 (Seizure and retention of weapons etc.)**42.** Section 139—*insert—*

‘(2A) Also, a police officer may seize and retain an antique firearm if the police officer reasonably believes a person in possession of the firearm is not a fit and proper person to be in possession of the firearm—

- (a) because of the person’s mental and physical fitness; or
- (b) if a domestic violence order has been made against the person; or
- (c) because the person has been convicted of an offence involving the use, carriage, discharge or possession of a weapon.’

Amendment of s 154 (Retention and disposal of weapons in police custody)**43.** Section 154(1)(b), ‘class’—*omit, insert—*

‘category or, for an antique firearm, the antique firearm’.

Amendment of s 179 (Compensation)

44. Section 179(2), from ‘under’—

omit, insert—

‘under either of the following Commonwealth Acts—

- the *National Firearms Program Implementation Act 1996*
- the *National Firearms Program Implementation Act 1997*.’.

PART 7—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES ACT 1997**Act amended in pt 7**

45. This part amends the *Police Powers and Responsibilities Act 1997*.

Amendment of s 10 (Appointment of police officers as public officials for other Acts)

46. Section 10—

insert—

‘(6) Subsection (4) applies even if a police officer is a public official because an express provision of another Act declares all police officers to be public officials for the other Act.’.

Amendment of s 13 (General power to enter to make inquiries, investigations or serve documents)

47. Section 13(5)—

omit, insert—

‘(5) However, if the place contains a dwelling, the only part of the place a police officer may enter without the consent of the occupier is the part of the place that is not a dwelling.’.

Amendment of s 18 (Crime scene warrant)

48. Section 18—

insert—

‘**(8A)** Also, if the issuer is a Supreme Court judge, the warrant must state whether or not a police officer may, under the warrant, do something that may cause structural damage to a building.’.

Amendment of s 20 (Powers at crime scene)

49.(1) Section 20(1)(g), ‘inspect the crime scene and’—

omit, insert—

‘search the crime scene and inspect’.

(2) Section 20(1)—

insert—

‘(ga)open anything at the crime scene that is locked;’.

(3) Section 20(3), after ‘is done’—

insert—

‘and the warrant authorises the doing of the thing’.

Amendment of s 26 (Searching persons without warrant)

50.(1) Section 26(2)(a)(i), after ‘weapon’—

insert—

‘or knife’.

(2) Section 26(3)—

omit, insert—

‘**(3)** The police officer may seize all or part of a thing—

(a) that may provide evidence of the commission of an offence; or

(b) that the person intends to use to cause harm to himself, herself or someone else.’.

Amendment of s 27 (Searching vehicles without warrant)

51. Section 27(6)—

omit, insert—

‘(6) The police officer may seize all or part of a thing—

- (a) that may provide evidence of the commission of an offence; or
- (b) that the person intends to use to cause harm to himself, herself or someone else.’.

Amendment of s 35 (Arrest without warrant)

52.(1) Section 35(1), after ‘committing an offence’—

insert—

‘(a “suspect”).

(2) Section 35(2), after ‘an indictable offence’—

insert—

‘(also a “suspect”).

(3) Section 35(2), from ‘under’—

omit, insert—

‘, or investigating the offence, under part 8.’.

Amendment of s 41 (Notice to appear form)

53. Section 41(3), ‘7 days’—

omit, insert—

‘14 days’.

Amendment of s 46 (Court may order immediate arrest of person who fails to appear)

54. Section 46(2)—

omit, insert—

‘(2) A document purporting to be a copy of the notice to appear signed on the day it is served by the police officer who served, and stating when and where it was served, it is evidence of the service of the notice.’.

Amendment of s 48 (Application of part)

55. Section 48(1), from ‘questioned’—

omit, insert—

‘detained for—

- (a) questioning about an indictable offence; or
- (b) the investigation of an indictable offence.’.

Amendment of s 49 (Removal of persons from lawful custody)

56. Section 49(2) and (5), from ‘investigating’—

omit, insert—

‘—

- (a) questioning the person about an offence; or
- (b) the investigation of an offence.’.

Amendment of s 51 (Extension of detention period)

57. Section 51(8), ‘is’—

omit, insert—

‘will, if extended under subsection (5), be’.

Amendment of s 68 (Surveillance warrants)

58. Section 68—

insert—

‘(19A) However, subsections (17) and (19) do not prevent the police officer exercising powers under the surveillance warrant after it stops

having effect, but only for removing the surveillance device to which the warrant relates.’.

Amendment of s 70 (Powers under surveillance warrants)

59.(1) Section 70, ‘executes’—

omit, insert—

‘exercises powers under’.

(2) Section 70—

insert—

‘(g) for a listening device or visual surveillance device—power to use an assistant to translate or interpret conversations or visual images intercepted under the warrant.’.

Amendment of s 76 (Report on covert search)

60. Section 76(1), after ‘issued the warrant’—

insert—

‘and the monitor’.

Insertion of new s 79A

61. After section 79—

insert—

‘Acting monitor

‘79A.(1) The Governor in Council may appoint a person, who is qualified for appointment as the public interest monitor, to act as the public interest monitor—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when the public interest monitor is absent from duty or from the State or, for another reason, can not perform the duties of the office.

(2) The Governor in Council may appoint a person, who is qualified for appointment as a deputy public interest monitor, to act as a deputy public interest monitor—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when a deputy public interest monitor is absent from duty or from the State or, for another reason, can not perform the duties of the office.’.

Insertion of new s 82A

62. Part 11, after section 82—

insert—

‘Protection from liability

‘82A.(1) The public interest monitor or a deputy public interest monitor does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to the public interest monitor or a deputy public interest monitor, the liability attaches instead to the State.’.

Amendment of s 83 (When part applies to behaviour)

63.(1) Section 83, heading, ‘**part**’—

omit, insert—

‘division’.

(2) Section 83(1), ‘**part**’—

omit, insert—

‘division’.

Amendment of s 84 (When part applies to person’s presence)

64.(1) Section 84, heading, ‘**part**’—

omit, insert—

‘division’.

(2) Section 84(1), ‘part’—

omit, insert—

‘division’.

(3) Section 84(2), ‘behaviour’—

omit, insert—

‘presence’.

Insertion of new pt 11A

65. After part 11—

insert—

‘PART 11A—WATCH-HOUSES

‘Control of persons in watch-houses

‘90A. The manager of a watch-house may give or cause to be given to a person in custody in the watch-house any reasonably necessary directions, or take or cause to be taken any reasonably necessary steps, for ensuring the good management and control of the watch-house.

Examples—

1. The manager may direct a person in custody to move from 1 cell to another because the person is causing disruption to others or for the safety of others.
2. The manager may physically remove a person from 1 cell to another if the person fails to comply with a direction.

‘Transfer of persons in watch-houses

‘90B. The manager of a watch-house may transfer a person in custody in a watch-house from the watch-house to—

- (a) another watch-house; or

- (b) a holding cell at a police station; or
- (c) another place at which the person may receive treatment necessary for the person's welfare.

Examples—

1. A person may be transferred from the watch-house at Holland Park to the Brisbane City watch-house because there are not enough cells or staff available at Holland Park to provide proper security at the watch-house or care for persons in custody.

2. A person held in custody at a watch-house may be transferred to a hospital to receive necessary medical treatment.’.

Amendment of s 108 (Requirements after property is seized)

66. Section 108—

insert—

‘(6) Also, at the end of a proceeding, a court may, in relation to a thing seized, make any of the following orders—

- (a) an order for the return, forfeiture, destruction or disposal of the thing;
- (b) an order that the thing be dealt with by way of a proceeding under the *Justices Act 1886*, section 39¹⁰ or a forfeiture proceeding;
- (c) an order that the police service retain the thing until it is dealt with according to law.’.

Amendment of s 110 (Return of seized things)

67. Section 110—

insert—

‘(2) Despite subsection (1), a police officer who seized a thing under

¹⁰ Section 39 (Power of court to order delivery of certain property)

section 26(3)(b) or 27(6)(b)¹¹ may retain the thing for 7 days after being satisfied as mentioned in subsection (1).’.

Amendment of s 120 (Assault etc. of police officer)

68. Section 120—

insert—

‘**(1A)** For subsection (1), a person who obstructs a police dog or police horse under the control of a police officer in the performance of the police officer’s duties is taken to obstruct the police officer.’.

Amendment of s 122 (Entry of place to prevent offence or injury)

69. Section 122(3)(c), after ‘place or’—

insert—

‘on’.

Amendment of s 123 (Police officer may use assistance in exercising certain powers)

70.(1) Section 123(1), after ‘equipment’—

insert—

‘, vehicle, animal’.

(2) Section 123—

insert—

‘**(5)** Subsection (1) applies, in relation to animals, despite any other Act or law.’.

¹¹ Section 26 (Searching persons without warrants) and 27 (Searching vehicles without warrant)

Amendment of sch 3 (Dictionary)

71.(1) Schedule 3, definition “**detention period**”—

omit.

(2) Schedule 3—

insert—

‘ **“detention period”** has the meaning given under section 50(3) and includes any period for which detention is extended under section 51.

“knife” see the *Weapons Act 1990*, section 51(5), definition “knife”.

“police dog” see the *Police Service Administration Act 1990*, section 1.4, definition “police dog”.

“police horse” see the *Police Service Administration Act 1990*, section 1.4, definition “police horse”.

“question”, for parts 8 and 12, means question a suspect about his or her involvement in an indictable offence.

“suspect”, for part 7, see section 35.¹²

“watch-house manager” means a police officer for the time being in charge of a watch-house.’.

(3) Schedule 3, definition “**identifying particulars**”, paragraph (a)(iv)—

omit, insert—

‘(iv) voiceprints;

(v) footprints; and’.

(4) Schedule 3, definition “**prescribed place**”—

insert—

‘(fa) an automatic teller machine; or’.

¹² Section 35 (Arrest without warrant)

PART 8—AMENDMENT OF CRIME COMMISSION ACT 1997

Act amended in pt 8

72. This part and the schedule amend the *Crime Commission Act 1997*.

Insertion of new s 70A

73. After section 70—

insert—

‘Acting monitor

‘70A.(1) The Governor in Council may appoint a person, who is qualified for appointment as the public interest monitor, to act as the public interest monitor—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when the public interest monitor is absent from duty or from the State or, for another reason, can not perform the duties of the office.

(2) The Governor in Council may appoint a person, who is qualified for appointment as a deputy public interest monitor, to act as a deputy public interest monitor—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when a deputy public interest monitor is absent from duty or from the State or, for another reason, can not perform the duties of the office.’

Insertion of new s 72A

74. Part 5, after section 72—

insert—

‘Protection from liability

‘**72A.(1)** The public interest monitor or a deputy public interest monitor does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to the public interest monitor or a deputy public interest monitor, the liability attaches instead to the State.’.

Amendment of s 78 (Requirements after property is seized)

75. Section 78—

insert—

‘**(5)** Also, at the end of a proceeding, a court may, in relation to a thing seized, make any of the following orders—

- (a) an order for the return, forfeiture, destruction or disposal of the thing;
- (b) an order that the thing be dealt with by way of a proceeding under the *Justices Act 1886*, section 39¹³ or a forfeiture proceeding;
- (c) an order that QCC retain the thing until it is dealt with according to law.’.

Amendment of s 82 (Surveillance warrants)

76. Section 82—

insert—

‘**(19A)** However, subsections (17) and (19) do not prevent a QCC officer exercising powers under the surveillance warrant after it stops having effect, but only for removing the surveillance device to which the warrant relates.’.

¹³ Section 39 (Power of court to order delivery of certain property)

Amendment of s 84 (Powers under surveillance warrant)

77.(1) Section 84, ‘executes’—

omit, insert—

‘exercises powers under’.

(2) Section 84—

insert—

‘(g) for a listening device or visual surveillance device—power to use an assistant to translate or interpret conversations or visual images intercepted under the warrant.’.

Amendment of s 141 (Insertion of new pt 3, div 1A)

78.(1) Section 141, after new section 84A—

insert—

‘Acting monitor

‘84AA.(1) The Governor in Council may appoint a person, who is qualified for appointment as the public interest monitor, to act as the public interest monitor—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when the public interest monitor is absent from duty or from the State or, for another reason, can not perform the duties of the office.

‘(2) The Governor in Council may appoint a person, who is qualified for appointment as a deputy public interest monitor, to act as a deputy public interest monitor—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when a deputy public interest monitor is absent from duty or from the State or, for another reason, can not perform the duties of the office.’.

(2) Section 141, after new section 84D—

insert—

‘Protection from liability

‘**84E.(1)** The public interest monitor or a deputy public interest monitor does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

‘**(2)** If subsection (1) prevents a civil liability attaching to the public interest monitor or a deputy public interest monitor, the liability attaches instead to the State.’.

PART 9—REPEALS

Acts repealed

79. The following Acts are repealed—

- *Police (Photographs) Act 1966*
- *Police Dogs Act 1984.*

SCHEDULE**MINOR AMENDMENTS OF THE CRIME
COMMISSION ACT 1997**

section 72

1. Parts 9 to 15—*renumber* as parts 8 to 14 respectively.**2. Section 133, heading, ‘12’—***omit, insert—*

‘11’.

3. Section 144, heading, ‘13’—*omit, insert—*

‘12’.

4. Section 146, heading, ‘14’—*omit, insert—*

‘13’.

SCHEDULE (continued)

5. Section 148, heading, ‘15’—*omit, insert—***‘14’.**