

Police and Other Legislation Amendment Bill 2004

Explanatory Notes

General Outline

Objective of the Legislation

The objectives of the legislation are to amend the *Weapons Act 1990* to: -

- require a court, when deciding a penalty for an unlawful possession offence, to consider whether the illegal weapon was kept in accordance with secure storage requirements under the *Weapons Act 1990*;
- allow an authorised officer to modify, suspend or amend conditions imposed on a permit issued for a shooting gallery;
- permit the holder of a weapons licence to renew a weapons licence through the use of powers of attorney;
- permit an authorised officer to require the affixing of a serial number to a firearm that is entered in the Commissioner's register, in circumstances where no serial number is displayed; and
- amend section 77 (collectors licence (Weapons)) to allow category H weapons manufactured before 1 January 1901, that are held under a collectors licence, to be possessed in a temporarily inoperable state.

To amend the *Police Powers and Responsibilities Act 2000* to-

- provide a consequential amendment to section 225 (Duty of Police Officer receiving custody of person arrested for offence) to allow a police officer other than an officer-in-charge of a police station or establishment and a watch house manager to grant bail;
- amend Chapter 11, Part 4 (Use of dangerous drugs for training) to remedy legislative difficulties in the training of police drug detection dogs;

- modify legislative limitations contained in Chapter 4 (Covert evidence gathering powers) relating to the definition of organised crime whilst also allowing police to covertly return lawfully obtained evidence;
- amend section 209 (Additional case when arrest of adult may be discontinued) to allow for the discontinuation of an arrest where an infringement notice is served on the person;
- provide authority for police officers to exclude a support person who is unable to perform the role of a support person during an interview;
- amend Schedule 4 (Dictionary) to include the definition of “night” similar to that contained within the Criminal Code; and
- address drafting and referencing anomalies and other minor and technical amendments.

To amend the *Police Service Administration Act 1990* to –

- clarify that a lawyer employed by the Police Service may represent the Police Service in a proceedings in a Magistrate’s Court or a Children’s Court;
- provide a technical amendment in order to ensure the correct placement of the Part 5A (Alcohol and drug tests) within the PSAA;
- exempt a police officer or staff member, to whom another police officer or staff member may self report an alcohol or drug dependency problem from section 7.2 (Duty concerning misconduct or breaches of discipline);
- limit the disclosure of information and documents of a police officer or staff member that self reports an alcohol or drug dependency problem; and
- amend the definition of ‘authorised officer’ under section 5A.2 (Definitions for pt 5) to include the rank of assistant commissioner.

To amend section 18 (Production of licence) of the *Security Providers Act 1993*, the authority presently conferred upon a police officer in relation to the production of a licence issued under the *Security Providers Act 1993*, to consolidate police powers contained within the *Police Powers and Responsibilities Act 2000*.

Means of Achieving Policy Objectives

The Bill achieves the objectives by amending the *Weapons Act 1990*, *Police Powers and Responsibilities Act 2000*, *Police Service Administration Act 1990* and *Security Providers Act 1993*.

Alternative Means of Achieving Policy Objectives

There are no alternative means of achieving the policy objectives other than by legislative reform.

Estimated Cost for Government Implementation

It is not anticipated that there will be any additional funding required as a result of the legislation.

Consistency with Fundamental Legislative Principles

Covert evidence gathering powers - covertly returning seized evidence to an offender

The current provisions of the *Police Powers and Responsibilities Act 2000* prevent the use of covert evidence gathering powers for the investigation of offences other than organized crime. The amendment will allow covert searches to be undertaken with respect to offences of murder, attempted murder, conspiracy to murder, manslaughter, and offences that attract a punishment of life imprisonment and involve a serious risk to, or actual loss of, a person's life or serious risk of, or actual, serious injury to a person.

The authority to extend covert searches for the investigation of these offences is extraordinary but necessary powers. As the level of intrusiveness may be extensive, the community expects respective safeguards also to be extensive to ensure the proper use of such powers. The public interest monitor will continue to perform an independent role, and will be able to overview applications to a Supreme Court Judge for such a search warrant. This over viewing function will continue to include the authority to ask the applicant police officer questions and make submissions to the judge with respect to the application. The use of these intrusive powers is considered justifiable, and is subject to appropriate safeguards presently contained within Chapter 4 of the PPR. Consequently, it is suggested that an acceptable balance will exist between the power and safeguards provided.

Consultation conducted in Development of the Bill

The following departments were consulted during the preparation of the Bill:

- Department of the Premier and Cabinet;
- Department of Justice and Attorney-General;
- Department of Tourism, Fair Trading and Wine Industry Development;
- Crime and Misconduct Commission;
- Department of Communities (Youth Justice and Development Unit);
- Department of Child Safety;
- Department of Aboriginal and Torres Strait Islander Policy;
- Office of Youth;
- Queensland Health;
- Queensland Treasury; and
- Disability Services Queensland.

The following private entities were consulted during the preparation of the Bill:

- Aboriginal and Torres Strait Islander Legal Services;
- Public Interest Monitor;
- Sporting Shooters Association of Australia (Queensland Branch);
- Queensland Shooting Association;
- Firearm Dealers Association of Queensland;
- Queensland Amateur Pistol Shooters Association;
- Arms Collectors Guild of Queensland; and
- Historical Arms Collectors Incorporated.

Notes On Provisions

Part 1 Preliminary

Short Title

Clause 1 specifies the short title of the Bill.

Commencement

Clause 2 provides that part 3 commences on assent. The remainder of the provisions commence on proclamation.

Commencement

Clause 2 provides that part 3 and clauses 38 and 43 commence on assent. the remainder of the provisions commence on proclamation.

Part 2 – Amendment of the Police Powers and Responsibilities Act 2000

Act amended in pt 2

Clause 3 is a machinery clause allowing for the amendments to the *Police Powers and Responsibilities Act 2000*.

Amendment of s 148 (Covert search warrant applications)

Section 148 provides that a police officer of the rank of inspector or above may apply to a Supreme Court Judge for a covert search warrant to enter a place for evidence of organised crime or terrorism.

Clause 4 amends section 148 to allow covert searches to be undertaken with respect to designated offences.

Amendment of s 151 (Issue of covert search warrant)

Section 151 provides that after considering the application, a judge may issue a warrant if satisfied that there are reasonable grounds for believing there is, in or on a place, evidence of organised crime or terrorism.

Clause 5 amends section 151 to allow the application to be undertaken with respect to designated offences.

Amendment of s 152 (What covert search warrant must state)

Section 152 provides the information, which must be included in a covert search warrant.

Clause 6 amends subsection (b) of the provision by inserting designated offence.

Amendment of s 153 (Duration and extension of covert search warrant)

Section 153 provides that a covert search warrant is in force until the day stated in the warrant, or the initial search is complete.

Clause 7 provides that subsection (1) does not prevent a police officer from exercising powers under a covert search warrant after the warrant has ended, to return a thing seized to which the search warrant relates.

Amendment of s 155 (Powers under covert search warrant)

Section 155 provides general powers that a police officer may exercise under a covert search warrant.

Subclause (1) of clause 8 amends subsection (e) of the provision to allow the seizure of a thing or part of a thing that a police officer believes is evidence of a designated offence.

Subclause (2) amends subsection (f) to allow a police officer to photograph evidence a police officer reasonably believes is evidence of a designated offence.

Subclause (3) inserts a new subsection (2) and provides a police officer with additional powers under a search warrant, if authorised by a Supreme Court Judge –

- (a) power to take a thing, or part of a thing, seized under the warrant, as a sample, to a place with appropriate facilities for testing the

thing for evidence of the commission of the designated offence or organised crime or of terrorism to which the warrant relates;

- (b) power to do any of the following in relation to a vehicle a police officer enters under the warrant if the police officer reasonably suspects the vehicle has evidence of the commission of the designated offence or organised crime or of terrorism to which the warrant relates in or on it -
 - (i) seize the vehicle;
 - (ii) take the vehicle to a place with appropriate facilities for searching the vehicle;
 - (iii) remove walls, ceiling linings, panels or fittings of the vehicle for the purpose of searching the vehicle;
 - (iv) search the vehicle for evidence of the commission of the designated offence or organised crime or of terrorism to which the warrant relates.

Amendment of s 209 (Additional case where arrest of adult may be discontinued)

Section 209 provides additional cases where it is the duty of a police officer to discontinue an arrest of a person. The provision enables the discontinuance of an arrest if it is more appropriate to take the person before a court by notice to appear or summons and the notice to appear or summons has been served on the person.

Clause 9 amends subsection (2) of the provision to enable the discontinuance of an arrest for the service of an infringement notice. The amendment will allow a police officer to remove the person from the scene, alleviating any possible repetition of the offence, serve the person with an infringement notice for the offence and then release the person.

Subclause (2) inserts a new subsection (5) providing a reference to the *State Penalties Enforcement Act 1999* for “infringement notice” and “infringement notice offence”.

Amendment of a 223 (Parent and chief executive to be advised of arrest or service of notice to appear)

Section 223 requires a police officer who arrests a child or serves a notice to appear to a child to advise where practicable, a parent of the child and

the CEO of family services or a nominated person of the arrest and whereabouts of the child, without unreasonable delay.

Clause 10 amends subsection (3)(b) by omitting ‘family services’ and inserting ‘communities’ to reflect the split of the Department of Families into the two new agencies.

The clause amends subsection (3) and inserts a new (c) to reflect the need to also notify the chief executive (child safety) where the child, who has been arrested or served with a notice to appear, is a child in the custody or guardianship of the chief executive (child safety) under the *Child Protection Act 1999*.

Amendment of s 225 (Duty of police officer receiving custody of person arrested for offence)

Section 225 provides that an officer in charge or watch house manager must, as soon as reasonably practicable, decide whether to grant bail or if not, then take a person charged with an offence before a court.

Clause 11 amends section 225 ensuring that the provision remains consistent with the provisions of section 7 (Power of police officer to grant bail) of the *Bail Act 1980*. The amendment will state that a prescribed police officer at the police station or establishment or a watch house may grant bail to a person in custody. The amendment is considered a consequential amendment arising from the *Police Powers and Responsibilities and Other Legislation Amendment Act 2000*.

Subclause (3) inserts a new subsection (5) providing a reference to the *Bail Act 1980* for “prescribed police officer”.

Amendment of s 231 (Chief executive must be advised of application for removal order)

Clause 12 amends section 231 omitting reference to ‘family services’ and inserting ‘communities’ to reflect the split of the Department of Families into the two new agencies.

Insertion of new ch 7, pt 3, div 4A

Clause 13 inserts a new division 4A (Exclusion of support persons in particular circumstances).

Insertion of s 257A (Application of div 4A)

The clause inserts section 257A and provides that the new division will apply when a police officer reasonably considers a support person is unable to properly perform the role of a support person and in particular circumstances, it is in the interests of the relevant person to exclude the support person.

The clause also provides that this division is in addition to and does not limit division 4 (Excluding persons unreasonably interfering with questioning).

Insertion of s 257B (When is a person unable to properly perform the role of a support person)

The clause inserts section 257B and details circumstances in which a person may be unable to properly perform the role of a support person.

Subsection (2) of the section provides that the provision does not limit the circumstances in which a person may be unable to properly perform the role of a support person.

Subsection (3) of the provision details the circumstances in which a person may be unable to properly perform the role of a support person. The circumstances are as follows –

- (a) the persons ability to perform the role is substantially impaired by the effect of something the person has ingested, for example, alcohol, a drug or a potentially harmful thing, and the impairment prevents the person from acting in the best interests of the relevant person;
- (b) the person is a person with an impaired capacity and the person's impairment prevents the person from acting in the best interests of the relevant person;
- (c) the person is, or appears to a police officer to be, unwilling to perform the role of a support person because, for example, of illness, injury, pain or tiredness;
- (d) the person has an affiliation, association or other relationship with a police officer questioning the relevant person;
- (e) the person has a relationship of authority with the relevant person that may prevent the person from acting in the best interests of the relevant person;

Example for paragraph (e) –

A teacher who recently excluded the relevant person from a school.

- (f) the person is a victim of the offence for which the relevant person is being questioned or a friend of the victim; or
- (g) the person witnessed the commission of the offence for which the relevant person is being questioned.

The clause inserts Subsection (4) to provide for the purpose of this section that “ingest” includes-

- (a) administer; and
- (b) inhale; and
- (c) smoke.

Insertion of s 257C (Police officer may exclude support person from questioning)

Clause 13 inserts section 257C to require a police officer to exclude a support person should the police officer consider the support person is unable to properly perform the role of a support person.

Subsection (3) and (4) of the provision require a police officer, that has excluded a support person from being present during an interview, to explain the reason for the person’s exclusion and that the explanation must be written or electronically recorded.

Insertion of s 257D (If police officer excludes support person from questioning of relevant person)

Section 251 (Questioning of aboriginal people and Torres Strait islanders), 252 (Questioning of children) and 253 (Questioning of persons with impaired capacity) impose particular obligations on a police officer that may be involved with the questioning of Aboriginal and Torres Strait Islanders, children, and persons with impaired capacity. The provisions generally outline that a support person must be present during questioning with a police officer.

The clause inserts section 257D and provides that should a police officer exclude a support person from questioning, the police officer must, if the relevant person is a person in relation to whom section 251, 252 or 253 applies, delay questioning to allow another support person to be present during questioning.

The section also requires a police officer to advise the relevant person that questioning is delayed to allow the attendance of another support person

during questioning and in circumstances where the relevant person is a child – allow the child to choose another support person.

Amendment of s 284 (Application of pt 3)

Clause 14 amends section 284 and inserts the correct cross-reference to section 25 of the *Juvenile Justice Act 1992*. The amendment will ensure that a police officer may not apply for a forensic procedure order under Part 3 to obtain a child's identifying particulars, e.g. fingerprints, in circumstances where it is practicable to obtain a Children's Court Magistrate's order to obtain the identifying particular under section 25 (Application by police officer for permission to take child's identifying particulars) of the *Juvenile Justice Act 1992*.

Amendment to s 316 (Taking DNA sample from child)

Clause 15 amends section 316 omitting reference to 'family services' and inserting 'communities' to reflect the split of the Department of Families into the two new agencies.

Amendment to s 323 (Notice to be given of application for disease test order for child)

Clause 16 amends section 323 omitting reference to 'family services' and inserting 'communities' to reflect the split of the Department of Families into the two new agencies.

Amendment of s 443H (Function and powers of drug control officer)

Clause 17 provides a grammatical amendment to section 443H(1).

Amendment of s 443L (Requirements for keeping of dangerous drugs for training purposes)

Section 443L outlines the requirements that apply for the police service's possession of dangerous drugs for training purposes. Clause 18 amends subsection (2)(a) of the provision to allow the gross weight of each package of dangerous drugs to be included in an audit.

Amendment of s 443N (information to be recorded in the register of dangerous drugs for training)

Section 443N details the minimum requirements that must be recorded in the register of dangerous drugs for training about each batch of a dangerous drug. Clause 19 amends section 443N omitting the need to separately weigh any container or packaging from a dangerous drug used for training purposes. In addition, the clause renumbers the provision and removes any doubt that a reference to “a part” means a part of the batch.

Amendment of s 446 (Performance of duty)

Section 446 provides that where a police officer is performing a function of the police service, the officer is performing a duty as a police officer even if another person could do what the officer is doing.

Clause 20 amends section 446 and inserts an example to demonstrate the purpose of the provision. The amendment will remove any doubt that a police officer who, at the request of the occupier of land, is removing a trespasser, is taken as acting in his or her capacity as a police officer, even though the provision allowing for the person’s removal may be exercised by a person other than a police officer.

Amendment of sch 4 (Dictionary)

Clause 21 amends schedule 4 defining ‘chief executive (child safety)’ and ‘chief executive (communities)’ to reflect the split of the Department of Families into the two new agencies. Additional amendments to definitions of ‘time out’, and ‘enforcement act’ are also made.

The clause amends schedule 4 and inserts “designated offence”. The amendment will define “designated offence” to mean an offence of murder, attempted murder, conspiracy to murder, manslaughter, and another offence for which a person is liable, on conviction, to be sentenced to imprisonment for life if the circumstances of the offence involve;

- (i) a serious risk to, or actual loss of, a person’s life; or
- (ii) a serious risk of, or actual, serious injury to a person.

Eg. Acts intended to cause grievous bodily harm and other malicious acts.

The clause amends schedule 4 to define ‘night’.

Part 3 – Amendment of the Police Service Administration Act 1990

Act amended in pt 3

Clause 22 is a machinery clause allowing for the amendments to the *Police Service Administration Act 1990*

Amendment of s1.4 (Definitions)

Clause 23 amends s1.4 defining ‘assistant commissioner’ and “prescribed person.”

Amendment of s5A.2 (Definitions for pt 5A)

Section 5A.2 provides that authorised persons may require a relevant member to submit to alcohol and targeted substance testing. Section 5A.2 (Definitions for pt 5) of the PSAA defines who are authorised persons.

Clause 24 amends section 5A.2 to allow an Assistant Commissioner the authority of an authorised person.

Amendment of s 5A.3 (Persons to whom pt 5A applies)

Section 5A.3 identifies the police officer’s and staff members of the service that the part will apply to.

Clause 25 amends section 5A.3 to clarify the relationship between subsection (1) of the provision and to the extent specified in section 5A.21A (Agreements about counselling and rehabilitation). Part 5 will apply to all members of the service concerning agreements about counselling and rehabilitation.

Amendment of s 5A.14 (Providing specimens for targeted substance test)

Clause 26 amends section 5A.14(2) and provides a technical amendment to the provision by inserting the correct reference to section 5A.13(1)(a)(i).

Amendment of s 5A.20 (Test result evidence generally inadmissible)

The purpose of this part is welfare and public confidence. Therefore, any tests and results of those tests need to remain confidential. Accordingly, the section provides that anything done under this part or any test result is inadmissible in a civil or criminal proceedings. Additionally, the commissioner and anyone else involved in anything done under the part cannot be compelled to produce to a court any document kept or to disclose to a court any information obtained by virtue of this part.

Clause 27 amends section 5A.20 to extend the application of the section to apply to an agreement entered into under section 5A.21A

Insertion of new s 5A.21A

The section provides that the provision applies to all members of the Queensland Police Service. However, the provision applies only to a member that may self-report to a prescribed person for the purposes of counselling or rehabilitation in relation to the person's use of alcohol or a drug.

The section allows that the commissioner, on application made by the member, may enter into an agreement with the member the counselling or rehabilitation approved by the commissioner. The section also provides that a regulation may prescribe the matters that must be included in the agreement.

Subsection (5) of the provision provides that the commissioner must not use information disclosed by the member for disciplinary or other action under:

- this Act; or
- the *Public Service Act 1996*.

Subsection (6) of the provision provides that the commissioner must not disclose information under this provision other than –

- for the purposes of the agreement; or
- for the purposes of section 6.1(1)(c) or 8.3; or
- to the extent the commissioner considers reasonably necessary to prevent or lessen a serious threat to the public or to the reporting members health or safety; or

- for the purposes of a claim for compensation under the *Workers Compensation and Rehabilitation Act 2003*.

Subsection (7) inserts ‘prescribed person’ for this provision to mean a person under a regulation that may make a request for counselling or rehabilitation in relation to the person’s use of alcohol or a drug.

Amendment of s 7.2 (Duty concerning misconduct or breaches of discipline)

Section 7.2 provides that it is the duty of any police officer or staff member who knows or suspects a police officer of any misconduct or breaches of discipline, to report such conduct to the Commissioner and to the chairperson of the Crime and Misconduct Commission.

Clause 29 amends section 7.2 to exempt a prescribed person under 5A.21A, who has knowledge of another police officer or staff member that may have self-reported an alcohol or drug dependency problem, from compliance with the provision.

Amendment of s 10.1 (Improper disclosure of information)

Clause 30 amends section 10.1 to clarify the relationship between authorised disclosure by the commissioner and other provisions contained within the Act.

Amendment of s.10.2 (Authorisation of disclosure)

Clause 31 amends section 10.2 by renumbering existing subsections of the provision and inserting a new subsection (2) to clarify the relationship between (1) and other provisions within the Act that limit disclosure of information.

Amendment of s 10.24 (Representation of officers in court)

Clause 32 amends section 10.24 to provide that a “service legal officer” may represent an officer for the prosecution in any proceedings under the section.

Insertion of new s 11.5

Clause 33 provides a technical amendment that ensures section 5.17 is in fact included in part 5 of the Act.

Part 4 – Amendment of Security Providers Act 1993

Act amended in pt 4

Clause 34 is a machinery clause allowing for the amendments to the *Security Providers Act 1993*.

Amendment s 18 (Production of licence)

Clause 35 amends section 18 to remove reference to a police officer contained within the provision. This power is to be consolidated within the general power for the production of a licence provided to police in section 20 of the PPRA.

Part 5 – Amendment of Weapons Act 1990

Act amended in pt 5

Clause 36 is a machinery clause allowing for the amendments to the *Weapons Act 1990*.

Insertion of new ss 18AA – 18AB

Clause 37 inserts new sections 18AA – 18AB. Section 18AA (Alternative provision for renewal application if licensee is an individual) allows for a licensee who is an individual to make application for the renewal of a weapons licence under a power of attorney when the licensee –

- is temporarily absent from Australia for a genuine occupational reason; or
- is temporarily a patient in a hospital.

An application may be made by a licensee under this provision despite the requirement under the *Weapons Act 1990* for the licensee to personally attend a police station.

Subsection (5) will limit the application of the provision to a single occasion and only if the attorney provides the authorised officer a statutory declaration stating the attorney is not entitled to a fee or other benefit for making the application.

Subsection (6) will provide the application of the provision will only extend to the renewal of licence application signed by the licensee and producing to a police officer additional information contained under section 18AB.

Clause 37 inserts section 18AB (What is required information for s18AA). The section provides additional information for an application to renew a weapons licence under a power of attorney.

The provision will require –

- photographic evidence of the attorneys identity;
- the original instrument conferring power of attorney, or a certified copy of the instrument;
- a statutory declaration providing details of the circumstances the licensee is either temporarily a patient in a hospital or is temporarily absent from Australia for a genuine occupational reason.

Amendment of s 33 (Interstate residents moving to Queensland)

Clause 38 amends section (33 (3)(a) and provides a technical amendment to provide that an interstate licence is taken to be corresponding licence under the WA for a period of no more than 3 months.

Insertion of new div 3A

Clause 39 inserts Division 3A (Marking serial numbers on unmarked firearms).

The clause inserts a new section 48A (Marking serial numbers on unmarked firearms) to allow the authorised officer to require the registered owner of a firearm, by written notice, to mark a serial number, provided by the authorised officer, to a firearm and that no compensation will be paid for this requirement. Before deciding to require the registered owner of an antique handgun to mark the serial number to the handgun, the authorised officer must have regard to –

- the impact marking the serial number on the handgun will have on the handgun's value; and
- ways of minimising the impact marking the serial number on the handgun may have on the handgun's value.

A notice issued under this provision must state the firearm must be marked with the provided serial number within 28 days of being given the notice; or if the 28 day period is extended, the period as extended. However, the registered owner may apply within the original 28 days for the serial number to be marked on the firearm in another way stated in the application. A registered owner of a firearm must comply with a requirement under this provision.

Subsection (7) of the provision will allow the authorised officer to grant an extension for the compliance period.

Clause 39 inserts a new section 48B (Alternative way of marking serial number) to allow the registered owner of a firearm, that is required to mark an assigned serial number to a firearm, to apply in writing to the authorised officer to mark the firearm in an alternative manner stated in the application. If approved, the registered owner must comply with the approval and mark the firearm within 28 days after being given the notice.

If the authorised officer refuses an application, the authorised officer must provide a notice of refusal to the registered owner.

Amendment of s 50 (Possession of weapons)

Clause 40 amends section 50 to require a court when deciding a penalty for an unlawful possession offence, to consider whether the illegal weapon was kept in accordance with secure storage requirements.

Amendment of s 77 (Collector's licence – weapons)

Clause 41 amends section 77 to provide that a temporarily inoperable category H weapon manufactured prior to 1 January 1901 may be held under a collectors licence.

Insertion of new sections 113A – 113C

Clause 42 inserts a new section 113A (Authorised officer may amend approval conditions) to provide that an authorised officer may amend the conditions that apply to an approval to conduct a shooting gallery. The new section will provide when conditions may be amended, matters the authorised officer must have regard to, procedural requirements and when amendments will take effect.

Clause 42 inserts a new section 113B (Authorised officer may make temporary amendment of conditions) to provide that an authorised officer may make a temporary amendment of conditions applying to the approval

of a shooting gallery. The new section will provide when a temporary amendment of conditions may be made, matters an authorised officer may have regard to, procedural requirements and when amendments will take effect.

Clause 42 inserts a new section 113C (Suspending or revoking approval) to provide that an authorised officer may suspend or revoke an approval to conduct a shooting gallery. The new section will provide for revocation or suspension of a permit when the Act or a condition of the permit is contravened or where it is likely that a person will be injured or suffer loss. The section will also provide for procedural matters and the effect of revocation or suspension of the permit.

Insertion of new s 185

Clause 43 inserts a new section 185 (Declaration relating to s33(3)(a) to provide a declaratory provision to the WA declaring that the amendment to s33(3)(a) is taken to be, and has always been in force from the commencement of the *Police Powers and Responsibilities and Other Legislation Amendment Act 2003*.