



Queensland

Police Service Administration and Other Legislation Amendment Bill 2008



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2008

A Bill

for

An Act to facilitate the exchange of policing information between the Queensland Police Service and the police forces or services of the Commonwealth and other States, and particular Queensland and Commonwealth public sector agencies

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Police Service Administration and Other Legislation Amendment Act 2008*. 4
5

Clause 2 Commencement 6

This Act commences on 6 October 2008. 7

Part 2 Amendment of Police Service Administration Act 1990 8
9

Clause 3 Act amended in pt 2 10

This part amends the *Police Service Administration Act 1990*. 11

Clause 4 Amendment of s 1.4 (Definitions) 12

(1) Section 1.4, definitions *CrimTrac Agency* and *declared law enforcement agency*— 13
omit. 14
15

(2) Section 1.4— 16
insert— 17

'approved agency, for part 10, division 1A, see section 10.2G. 18

approved information, for part 10, division 1A, see section 10.2G. 19
20

<i>condition</i> , for part 10, division 1A, see section 10.2G.	1
<i>CrimTrac</i> see section 10.2H.	2
<i>declared agency</i> see the <i>Police Powers and Responsibilities Act 2000</i> , schedule 6.	3 4
<i>end user</i> , for part 10, division 1A, see section 10.2G.	5
<i>head</i> , for part 10, division 1A, see section 10.2G.	6
<i>IPSP</i> , for part 10, division 1A, see section 10.2G.	7
<i>law enforcement agency</i> , for part 10, division 1A, see section 10.2G.	8 9
<i>law enforcement purpose</i> , for part 10, division 1A, see section 10.2G.	10 11
<i>member</i> , for part 10, division 1A, see section 10.2G.	12
<i>MINDA</i> , for part 10, division 1A, see section 10.2G.	13
<i>policing purpose</i> , for part 10, division 1A, see section 10.2G.	14
<i>Queensland Transport</i> means the department in which the Transport Operations (Road Use Management) Act 1995 is administered.	15 16 17
<i>use</i> , for part 10, division 1A, see section 10.2G.’.	18
(3) Section 1.4, definition <i>criminal history</i> —	19
<i>insert</i> —	20
‘(c) for part 10, division 1A—	21
(i) means the person’s convictions in relation to offences committed in Queensland or elsewhere; and	22 23 24
(ii) includes information about—	25
(A) offences of any kind alleged to have been committed, in Queensland or elsewhere, by the person; and	26 27 28
(B) cautions administered to the person under the <i>Juvenile Justice Act 1992</i> , part 2, division 2; and	29 30 31

[s 5]

	(C) referrals of offences to conferences under the <i>Juvenile Justice Act 1992</i> , part 2, division 3 or part 7, division 2.’	1 2 3
	(4) Section 1.4, definition <i>QPS database</i> , ‘, for the schedule,’— <i>omit</i> .	4 5
Clause 5	Amendment of s 5AA.9 (Commissioner may request information from other authorities) Section 5AA.9(3), ‘declared law enforcement agency’— <i>omit, insert</i> — ‘declared agency’.	6 7 8 9 10
Clause 6	Amendment of s 5AA.11 (Assessment of suitability) Section 5AA.11(2)(b), ‘declared law enforcement agency’— <i>omit, insert</i> — ‘declared agency’.	11 12 13 14
Clause 7	Amendment of s 10.2A (Disclosure of criminal history for employment screening under commercial or other arrangement) Section 10.2A(1)(a), ‘the CrimTrac Agency’— <i>omit, insert</i> — ‘CrimTrac’.	15 16 17 18 19 20
Clause 8	Insertion of new pt 10, div 1A Part 10, after division 1— <i>insert</i> —	21 22 23

‘Division 1A	Provisions about exchange of policing information	1 2
‘Subdivision 1	Preliminary	3
‘10.2G Definitions for div 1A		4
‘In this division—		5
<i>approved agency</i> means an entity established under the law of the Commonwealth or a State prescribed under a regulation as an approved agency.		6 7 8
<i>approved information</i> means information in a QPS database of a kind that is prescribed under a regulation.		9 10
<i>condition</i> includes prohibition or restriction.		11
<i>end user</i> means the following entities—		12
(a) an approved agency;		13
(b) a law enforcement agency;		14
(c) a police force or service of the Commonwealth or another State.		15 16
<i>head</i> , of an entity, means—		17
(a) for an approved agency or a law enforcement agency—the chief executive officer of the agency; or		18 19
(b) for an IPSP—the chief executive officer of the IPSP; or		20
(c) for a police force or service of the Commonwealth or another State—the commissioner of the police force or service; or		21 22 23
(d) for Queensland Transport—the chief executive of Queensland Transport; or		24 25
(e) for any other entity established under the law of the Commonwealth or a State—the chief executive officer of the entity.		26 27 28
<i>IPSP</i> means—		29

[s 8]

- (a) CrimTrac; or 1
- (b) an entity established under the law of the 2
Commonwealth or a State prescribed under a regulation 3
as an information processing service provider. 4
- law enforcement agency** means an entity established under 5
the law of the Commonwealth or a State prescribed under a 6
regulation as a law enforcement agency. 7
- law enforcement purpose**, in relation to the use of 8
information by an approved agency or law enforcement 9
agency, means a purpose for which the agency is authorised to 10
use the information under a law of the Commonwealth or a 11
State. 12
- member**, of an entity, includes a person employed or engaged 13
by the entity. 14
- MINDA** means the system administered by Queensland 15
Transport that is known as the Mobile Integrated Network 16
Data Access system. 17
- policing purpose**, in relation to the use of information by a 18
police force or service of the Commonwealth or another State, 19
means a purpose substantially similar to a purpose for which 20
the Queensland Police Service is authorised to use the 21
information under an Act. 22
- use**, in relation to information, includes the following— 23
- (a) disclose; 24
- (b) give; 25
- (c) give access to; 26
- (d) make available; 27
- (e) publish; 28
- (f) record. 29

‘10.2H Meaning of *CrimTrac*

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- ‘(1) *CrimTrac* means the executive agency established under the *Public Service Act 1999* (Cwlth), section 65 to which the Governor-General has allocated the name *CrimTrac Agency*.
 - ‘(2) A reference to *CrimTrac* includes—
 - (a) if the Governor-General allocates a different name to the *CrimTrac Agency* under the *Public Service Act 1999* (Cwlth), section 65—that agency; and
 - (b) if the *CrimTrac Agency* or another agency mentioned in paragraph (a) is replaced by another agency that performs functions substantially similar to the functions of the agency mentioned in subsection (1)—that agency.

‘Subdivision 2 Giving of policing information

‘10.2I Giving information to an IPSP to enable use of approved information by police services and law enforcement agencies for particular purposes

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- ‘(1) The commissioner may give to the head of an IPSP all or any information in a QPS database for inclusion in a database administered by the IPSP for the purpose of the IPSP giving approved information to—
 - (a) the head of a police force or service of the Commonwealth or another State to enable the police force or service to use the approved information for a policing purpose; or
 - (b) the head of a law enforcement agency to enable the law enforcement agency to use the approved information for a law enforcement purpose.
 - ‘(2) To remove any doubt, it is declared that this section does not limit section 10.2J.

[s 8]

‘10.2J Giving approved information to police services and law enforcement agencies to enable use of approved information for particular purposes	1 2 3
‘The commissioner may give approved information in a QPS database to—	4 5
(a) the head of a police force or service of the Commonwealth or another State to enable the police force or service to use the approved information for a policing purpose; or	6 7 8 9
(b) the head of a law enforcement agency to enable the law enforcement agency to use the approved information for a law enforcement purpose.	10 11 12
‘10.2K Giving information to Queensland Transport to enable Queensland Transport to administer MINDA	13 14
‘The commissioner may give the head of Queensland Transport all or any information in a QPS database to enable Queensland Transport to administer MINDA for the Queensland Police Service.	15 16 17 18
‘10.2L Giving information to approved agencies to enable use of information for particular purposes	19 20
‘(1) The commissioner may give the head of an approved agency all or any information in a QPS database to enable the approved agency to use the information for a law enforcement purpose.	21 22 23 24
‘(2) Without limiting subsection (1), the commissioner may give the information to the head of the approved agency by allowing an authorised member of the approved agency to have direct access to a QPS database.	25 26 27 28
‘(3) In this section—	29
<i>authorised member</i> , of an approved agency, means a member of the approved agency authorised in writing by the commissioner to have direct access to a QPS database.	30 31 32

‘10.2M Commissioner may impose conditions	1
‘The commissioner may give information to the head of an entity under this subdivision on the conditions the commissioner considers appropriate.	2 3 4
‘Subdivison 3 Relationship with other provisions	5
‘10.2N Use of information permitted despite other provisions	6
‘(1) Information may be given to the head of an entity by the commissioner or an IPSP as mentioned in subdivision 2 despite a prescribed provision.	7 8 9
‘(2) Despite a prescribed provision—	10
(a) the police force or service of the Commonwealth or another State may use, for a policing purpose, information given to the commissioner of the police force or service by the commissioner or an IPSP as mentioned in subdivision 2; and	11 12 13 14 15
(b) the law enforcement agency or an approved agency may use, for a law enforcement purpose, information given to the chief executive officer of the agency by the commissioner or an IPSP as mentioned in subdivision 2.	16 17 18 19
‘(3) In this section—	20
<i>prescribed provision</i> means—	21
(a) part 5A; or	22
(b) part 5AA; or	23
(c) part 10, division 1; or	24
(d) any other Act imposing a condition on the use of information.	25 26
‘10.2O Condition imposed under another Act may apply	27
‘(1) This section applies in relation to information a member of an end user has because it has been given to the head of the end	28 29

[s 8]

user by the commissioner or an IPSP as mentioned in subdivision 2.	1 2
‘(2) If the information is subject to a condition on use imposed under another Act when in the possession of the Queensland Police Service, the same condition or a condition of the same kind applies to the information when in the possession of the member.	3 4 5 6 7
<i>Examples of conditions on use imposed under another Act—</i>	8
• <i>Juvenile Justice Act</i> , section 289 (Recording, use or disclosure for authorised purpose)	9 10
• <i>Juvenile Justice Act</i> , section 295 (Disclosure by police of information about cautions and youth justice conferences and agreements)	11 12 13
• <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)	14 15 16
• <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , section 7 (Section 6 not applicable in certain cases)	17 18
‘Subdivision 4 General	19
‘10.2P Misuse of information given under this division	20
‘(1) This section applies in relation to information a member of an entity has because it has been given to the head of the entity by the commissioner or an IPSP as mentioned in subdivision 2.	21 22 23 24
‘(2) The member must not use the information—	25
(a) for a purpose other than—	26
(i) the purpose mentioned in subdivision 2 for which the information has been given to the head of the entity by the commissioner or the IPSP; or	27 28 29
(ii) a purpose that is authorised or permitted under an Act; or	30 31

<i>Note—</i>	1
See the <i>Acts Interpretation Act 1954</i> , section 6 (References to <i>Act</i>).	2 3
(b) in contravention of a condition, if any, imposed by the commissioner under section 10.2M.	4 5
Maximum penalty—100 penalty units.	6
‘(3) Also, if the member has the information because it has been given to the head of an end user by the commissioner or an IPSP as mentioned in subdivision 2, the member must not use the information in contravention of a condition mentioned in section 10.2O(2).	7 8 9 10 11
Maximum penalty—100 penalty units.	12
‘10.2Q Extra-territorial application of offence provision	13
‘A person commits an offence against section 10.2P(2) or (3) even if the person uses the information mentioned in section 10.2P(1) outside the State.	14 15 16
‘10.2R Protection from liability	17
‘(1) This section applies if a person, acting honestly and without negligence, gives information under this division.	18 19
‘(2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.	20 21
‘(3) Also, merely because the person gives the information, the person can not be held to have—	22 23
(a) breached any code of professional etiquette or ethics; or	24
(b) departed from accepted standards of professional conduct.	25 26
‘(4) Without limiting subsections (2) and (3)—	27
(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and	28 29

[s 9]

- (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving the information.’.

Clause 9 Replacement of pt 11, hdg (Transitional provisions) 8
Part 11, heading— 9
omit, insert— 10
‘Part 11 Transitional and declaratory provisions’. 11
12

Clause 10 Insertion of new pt 11, div 3 13
Part 11— 14
insert— 15
‘Division 3 Declaratory provision for Police Service Administration and Other Legislation Amendment Act 2008 16
17
18

‘11.6 Amendment of regulation by Police Service Administration and Other Legislation Amendment Act 2008 does not affect powers of Governor in Council 19
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21
‘The amendment of the Police Service Administration Regulation 1990 by the Police Service Administration and Other Legislation Amendment Act 2008 does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’. 22
23
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25
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Clause 11	Amendment of schedule (Relevant information)	1
(1)	Schedule, entry for information about police officers, recruits and applicants to become police officers or recruits, item 1, ‘the CrimTrac Agency’—	2 3 4
	<i>omit, insert</i> —	5
	‘CrimTrac’.	6
(2)	Schedule, entry for information about police officers, recruits and applicants to become police officers or recruits, items 2 to 4—	7 8 9
	<i>omit, insert</i> —	10
‘2	Information in a QPS database or other database kept by the commissioner about—	11 12
	• the person’s criminal history	13
	• the person’s traffic history	14
	• warrants issued in relation to the person	15
	• cautions or warnings administered or given to the person	16
	• whether the person is a person of interest in Queensland or interstate because, for example, the person is a suspect, an offender, a missing person, a victim or a witness	17 18 19 20
	• address checks for the person	21
	• the person’s driver licence details	22
	• any incidents, including traffic crash occurrences, involving the person	23 24
	• any offences involving the person	25
	• any complaints involving the person	26
	• the person’s domestic violence history	27
	• the person’s drug history	28
	• the person’s arrest history	29
	• charges laid against the person	30

[s 11]

- any detention of the person in custody 1
- any prosecutions started against the person. 2
- 3 Information in a database kept by the chief executive of Queensland Transport about— 3
4
 - the person’s traffic history 5
 - the person’s driver licence details.’. 6
- (3) Schedule, entry for information about police officers, recruits and applicants to become police officers or recruits, item 5, ‘the CrimTrac Agency’— 7
8
9
omit, insert— 10
‘CrimTrac’. 11
- (4) Schedule, entry for information about police officers, recruits and applicants to become police officers or recruits, items 5 to 13— 12
13
14
renumber as items 4 to 12. 15
- (5) Schedule, entry for information about staff members, applicants to become staff members, volunteers and students on work experience, item 1, ‘the CrimTrac Agency’— 16
17
18
omit, insert— 19
‘CrimTrac’. 20
- (6) Schedule, entry for information about staff members, applicants to become staff members, volunteers and students on work experience, items 2 and 3— 21
22
23
omit, insert— 24
- ‘2 Information in a QPS database or other database kept by the commissioner about— 25
26
 - the person’s criminal history 27
 - if the person is nominated for appointment to a position that involves significant driving duties—the person’s Queensland traffic history 28
29
30
 - warrants issued in relation to the person 31

-
- cautions or warnings administered or given to the person 1
 - whether the person is a person of interest in Queensland or interstate because, for example, the person is a suspect, an offender, a missing person, a victim or a witness 2
3
4
5
 - charges laid against the person in Queensland 6
 - whether the person is wanted for questioning 7
 - any known alias of the person. 8
- 3 Information about the person's Queensland traffic history in a database kept by the chief executive of Queensland Transport if the person is nominated for appointment to a position that involves significant driving duties.' 9
10
11
12
- (7) Schedule, entry for information about staff members, applicants to become staff members, volunteers and students on work experience, item 4, 'declared law enforcement agency'— 13
14
15
16
omit, insert— 17
'declared agency'. 18
- (8) Schedule, entry for information about staff members, applicants to become staff members, volunteers and students on work experience, item 8, from 'system'— 19
20
21
omit, insert— 22
'records kept as part of the database known as QPRIME.'. 23
- (9) Schedule, entry for persons performing, or seeking to perform functions, for the service under a contract for services, item 1, 'the CrimTrac Agency'— 24
25
26
omit, insert— 27
'CrimTrac'. 28
- (10) Schedule, entry for persons performing, or seeking to perform functions, for the service under a contract for services, items 2 and 3— 29
30
31
omit, insert— 32
-

[s 12]

- | | | |
|----|--|----|
| ‘2 | Information in a QPS database or other database kept by the commissioner about— | 1 |
| | | 2 |
| | • the person’s Queensland criminal history | 3 |
| | • the person’s traffic history | 4 |
| | • warrants issued in relation to the person | 5 |
| | • cautions or warnings administered or given to the person | 6 |
| | • whether the person is a person of interest in Queensland or interstate because, for example, the person is a suspect, an offender, a missing person, a victim or a witness | 7 |
| | | 8 |
| | | 9 |
| | | 10 |
| | • whether the person is wanted for questioning | 11 |
| | • any known alias of the person. | 12 |
| 3 | Information about the person’s traffic history kept by the chief executive of Queensland Transport.’. | 13 |
| | | 14 |

Part 3	Amendment of Police Service Administration Regulation 1990	15
		16

Clause 12	Regulation amended in pt 3	17
	This part amends the <i>Police Service Administration Regulation 1990</i> .	18
		19

Clause 13	Insertion of new pt 7D	20
	After part 7C—	21
	<i>insert—</i>	22

‘Part 7D	Provisions about exchange of policing information	1 2
‘7C.2	Law enforcement agencies—Act, s 10.2G	3
	‘For section 10.2G of the Act, definition <i>law enforcement agency</i> , each of the following entities is a law enforcement agency—	4 5 6
	(a) the Crime and Misconduct Commission;	7
	(b) the Australian Crime Commission;	8
	(c) the Australian Security Intelligence Organisation;	9
	(d) the Australian Customs Service.	10
‘7C.3	Approved information—Act, s 10.2G	11
	‘For section 10.2G of the Act, definition <i>approved information</i> , the approved information in a QPS database is the information stated in the schedule.’.	12 13 14
Clause 14	Insertion of new schedule	15
	After part 8—	16
	<i>insert—</i>	17
‘Schedule	Approved information	18
	section 7C.3	19
1	In relation to a person—	20
	• name	21
	• alias	22
	• date of birth	23
	• gender	24

[s 14]

- residential or other address 1
- drivers licence number 2
- physical or racial description 3
- whether the person is an Aboriginal or Torres Strait Islander 4
5
- distinguishing features, including, for example, tattoos and scars 6
7
- criminal history 8
- whether a warrant has been issued in relation to the person and the details of the warrant 9
10
- whether the person is or has been a person of interest in Queensland or interstate and the details of why the person is or has been a person of interest 11
12
13
- whether a domestic violence order has been made against the person and the details of the order 14
15
- whether the person's name has been entered on the child protection register 16
17
- whether a warning, including, for example, a warning about the health or behaviour of the person has been recorded in a document in the possession of the Queensland Police Service and the details of the warning 18
19
20
21
22
- whether the person has been granted bail and any conditions of the bail 23
24
- whether the person has held a licence for, or possessed, a weapon and the details of the licence or possession 25
26
- whether the person is or has been an escapee and the details relating to the escape 27
28
- whether the person is or has been a missing person 29
- whether a DNA sample has been provided by the person 30
- a fingerprint identification number 31

- a jurisdictional reference number recorded in a QPS database for the person 1
2
 - a photograph of the person 3
 - deceased date. 4
- 2 In relation to a matter or thing— 5
- the details of an unidentified person report 6
 - the details of an unidentified body report.’. 7