



New South Wales

Law Enforcement (Powers and Responsibilities) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to:

- (a) consolidate, restate and clarify the law relating to police and other law enforcement officers' powers and responsibilities, and
- (b) set out the safeguards applicable in respect of persons being investigated for offences, and
- (c) make provision for other police powers, including powers relating to crime scenes, production of bank documents and other matters, and
- (d) make consequential repeals of, and amendments to, other Acts and provisions of a savings and transitional nature.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 contains definitions of terms used in the proposed Act.

Clause 4 provides that the proposed Act is not to affect the functions, obligations and liabilities conferred on a police officer as a constable under the common law and other individual functions a police officer may exercise, including powers to deal with breaches of the peace.

Clause 5 provides that the proposed Act is not to affect functions that a police officer has under certain specified laws but that a police officer may exercise functions under the proposed Act for the purpose of giving effect to those specified laws.

Clause 6 provides that the proposed Act is to prevail over other inconsistent Acts or regulations whether enacted before or after the proposed Act, subject to express exceptions.

Clause 7 makes it clear that the provisions of each Part of the proposed Act (which each relate to particular kinds of powers) do not limit the functions, or exercise of functions, set out in any other proposed Part.

Clause 8 provides that the proposed Act is to bind the Crown.

Part 2 Powers of entry

The proposed Part sets out powers of police officers to enter premises for particular purposes.

These powers are derived from existing common law powers and also from powers contained in legislation of other jurisdictions.

Clause 9 enables a police officer to enter premises if the police officer believes on reasonable grounds that a breach of the peace is being or is likely to be committed and it is necessary to enter immediately to end or prevent the breach of peace. A

police officer may also enter premises if the police officer believes on reasonable grounds that a person has suffered significant physical injury or that there is imminent danger of significant injury to a person.

Clause 10 enables a police officer to enter premises to arrest a person, to detain a person under another Act or to arrest a person named in a warrant, but a dwelling may be entered only if the officer believes on reasonable grounds that the person is in the premises. The police officer may search the premises for the person.

Part 3 Powers to require identity to be disclosed

The provisions of the proposed Part re-enact existing New South Wales legislation.

Division 1 General power to require identity to be disclosed

Clause 11 sets out the power of a police officer to request a person to disclose his or her identity (that is, name and address) if the police officer believes on reasonable grounds that the person may be able to assist in the investigation of an indictable offence because the person was at or near the place where the alleged offence occurred before, when or soon after it occurred.

Clause 12 makes it an offence, without reasonable excuse, to fail or refuse to comply with the request to disclose identity.

Clause 13 makes it an offence, without reasonable excuse, to give a name that is false in a material particular or to give an address other than the full and correct address.

Division 2 Powers to require identity of drivers and passengers to be disclosed

Clause 14 sets out the power of a police officer to request the driver of, a passenger in or the owner of a vehicle to disclose his or her identity or the identity of a passenger or driver (as the case requires) if the police officer believes on reasonable grounds that the vehicle was or may have been used in connection with an indictable offence.

Clause 15 makes it an offence for a driver of a vehicle, without reasonable excuse, to fail or refuse to comply with the request to disclose his or her identity or the identity of a passenger or other information about the passenger's identity.

Clause 16 makes it an offence for a passenger in a vehicle, without reasonable excuse, to fail or refuse to comply with the request to disclose his or her identity or the identity of the driver or other information about the driver's identity.

Clause 17 makes it an offence for the owner of a vehicle, without reasonable excuse, to fail or refuse to comply with the request to disclose the identity of the driver or a passenger or other information about the driver's or passenger's identity.

Clause 18 makes it an offence for a driver, owner or passenger, without reasonable excuse, to give a name that is false in a material particular or to give an address other than the full and correct address.

Division 3 Proof of identity

Clause 19 enables a police officer to request a person requested to disclose his or her identity under the proposed Part to provide proof of his or her identity.

Part 4 Search and seizure powers without warrant

The provisions of the proposed Part re-enact existing New South Wales legislation.

Division 1 General personal search and seizure powers

Clause 20 defines specified offences as *relevant offences* for the purposes of the proposed Division. They are indictable offences, offences against section 545E of the *Crimes Act 1900* (relating to possession of dangerous articles other than firearms), and offences under the *Weapons Prohibition Act 1998*, the *Firearms Act 1996*, or a regulation made under either of those Acts.

Clause 21 sets out the powers of a police officer, without a warrant, to stop, search and detain a person and anything in the possession of or under the control of a person if the police officer suspects on reasonable grounds that particular circumstances exist. The circumstances include the person having in his or her possession or under his or her control a stolen thing or something that has been otherwise unlawfully obtained, a thing used or intended to be used in or in connection with the commission of a relevant offence, (in a public place) a dangerous article that is being, or was, or may have been so used or a prohibited plant or prohibited drug. A police officer may seize and detain any article that the

officer reasonably suspects is stolen or unlawfully obtained or may provide evidence of a relevant offence or that is a dangerous article or a prohibited plant or prohibited drug.

Clause 22 enables a police officer who is lawfully on premises to seize and detain a dangerous article, if the police officer reasonably suspects that it is being or was being used in or in connection with a relevant offence.

Division 2 Searches of persons on arrest or while in custody

Clause 23 sets out the power of a police officer to search a person at or after arrest if the officer suspects on reasonable grounds that the person is carrying anything that would present a danger to a person, that could be used to escape from lawful custody, that is a thing with respect to which an offence has been committed, that will provide evidence of the commission of an offence or that was used, or is intended to be used, in connection with the commission of an offence. A police officer who arrests a person for the purpose of taking the person into lawful custody may also search the person at or after arrest if the officer suspects on reasonable grounds that the person is carrying anything that would present a danger to the person or that could be used to assist the person to escape from lawful custody. A police officer may seize and detain anything of a kind for which the search may be conducted.

Clause 24 sets out the power of a police officer to search a person who is in lawful custody and to take from the person anything found on that search.

Division 3 Additional personal search and seizure powers in public places and schools

Clause 25 contains definitions of terms used in the proposed Division.

Clause 26 enables a police officer to request a person who is in a public place or school to submit to a frisk search, and to search the person, if the police officer suspects on reasonable grounds that the person has a dangerous implement in his or her custody. If the person is in a school and is a student, the police officer may request that the person submit to a search of the person's locker and an examination of any bag or other personal effect in the locker. An adult nominated by the student may be present during the search. The police officer may request the production of anything seen or detected on the person that is a suspected dangerous implement or anything detected by an electronic metal detection device.

Clause 27 makes it an offence, without reasonable excuse, to fail or refuse to produce a thing as requested or to submit to a search as requested.

Clause 28 enables a police officer to confiscate a dangerous implement that is unlawfully in a person's custody in a public place or school.

Division 4 Provisions relating generally to personal searches

The provisions of the proposed Division reflect the common law relating to police search powers, current police guidelines relating to searches and relevant provisions of Commonwealth legislation.

Clause 29 applies the proposed Division to searches by a police officer or other person under the proposed Act.

Clause 30 authorises a police officer or other person to carry out a frisk search or an ordinary search whenever the police officer or other person is authorised to carry out a search. In a frisk search, the police officer or other person may treat a person's outer clothing (to which the search is to be confined) as the outer clothing after a coat or jacket is removed.

Clause 31 authorises a police officer or other person to carry out a strip search if the officer or other person suspects on reasonable grounds that it is necessary to carry out such a search for the purposes of the search and that the seriousness and urgency of the circumstances require the strip search to be carried out.

Clause 32 sets out rules applying generally to personal searches that a police officer or other person must comply with as far as is reasonably practicable in the circumstances. These include requirements to inform the person as to whether and why it is necessary to remove clothing, to ask for cooperation, to conduct the search in a way that provides reasonable privacy and is as quick as is reasonably practicable, to conduct the least invasive kind of search, not to search the person's genital area unless necessary to do so for the search purposes, to allow the person to dress as soon as the search is finished and not to question a person while searching the person. A search is to be conducted by a person of the same sex.

Clause 33 sets out rules applying generally to strip searches that a police officer or other person must comply with as far as is reasonably practicable in the circumstances. These include requirements to conduct the search in a private area, not to search in view of persons of the opposite sex, not to search a person's body cavities, not to remove more clothes than is necessary and for a search not to involve more visual inspection than is necessary. A medical practitioner or parent or guardian may be present if the person being searched has no objection. The

proposed section also requires strip searches of children aged between 10 and 18 years of age or persons suffering impaired intellectual functioning to be carried out, if reasonably practicable, in the presence of a parent or guardian of a person being searched.

Clause 34 prohibits strip searches of persons under 10 years of age.

Division 5 Vehicle entry, search and roadblock powers

Clause 35 defines specified offences as *relevant offences* for the purposes of the proposed Division. They are indictable offences, offences against section 545E of the *Crimes Act 1900* (relating to possession of dangerous articles other than firearms), and offences under the *Weapons Prohibition Act 1998*, the *Firearms Act 1996*, or a regulation made under either of those Acts.

Clause 36 sets out the powers of a police officer, without a warrant, to stop, search and detain a vehicle if the police officer suspects on reasonable grounds that particular circumstances exist. The circumstances include the vehicle containing, or a person in the vehicle having in his or her possession or under his or her control, a stolen thing or something that has been otherwise unlawfully obtained or a prohibited plant or a prohibited drug, the vehicle being used, or containing a thing used or intended to be used, in or in connection with the commission of a relevant offence, the vehicle being in a public place and containing a dangerous article that is being, or was, or may have been, used in connection with a relevant offence or that circumstances exist on or in the vicinity of a public place that are likely to give rise to a serious risk to public safety. The powers extend to a vehicle of a class of vehicles if the police officer reasonably suspects that the vehicle is being used, or was or may have been used, in or in connection with the commission of an indictable offence or that circumstances exist on or in the vicinity of a public place that are likely to give rise to a serious risk to public safety. A police officer may seize and detain any article that the officer reasonably suspects is stolen or unlawfully obtained or may provide evidence of an offence or that is a dangerous article or a prohibited plant or prohibited drug.

Clause 37 contains the power of a senior police officer to authorise police officers to exercise powers to erect roadblocks and direct vehicles to stop if the senior police officer suspects on reasonable grounds that the vehicle is being, or was, or may have been, used in connection with the commission of an indictable offence and doing so may provide evidence of such an offence or a risk to public safety may be lessened.

Clause 38 enables a police officer to give reasonable directions to facilitate the exercise of a search power or a vehicle roadblock power under the proposed Division.

Clause 39 makes it an offence, without reasonable excuse, to fail or refuse to stop a vehicle if requested to do so under the proposed Division or to fail or refuse to comply with a direction under the proposed Division.

Clause 40 provides for roadblock authorisations to be verbal or written, and for the period for which they remain in force (up to 6 hours).

Clause 41 sets out matters to be specified in a roadblock authorisation and requires a record to be made of a roadblock authorisation.

Division 6 Vessel and aircraft entry and search powers

Clause 42 sets out the powers of a police officer, without a warrant, to stop, search and detain a vessel or aircraft if the police officer suspects on reasonable grounds that particular circumstances exist. The circumstances include the vessel or aircraft containing, or a person in the vessel or aircraft having in his or her possession or under his or her control, a stolen thing or something that has been otherwise unlawfully obtained, the vessel or aircraft being used or intended to be used, or containing a thing used or intended to be used, in or in connection with the commission of a relevant offence to which the proposed section applies and the vessel or aircraft being in a public place and containing a dangerous article that is being or may have been used in connection with such an offence. A police officer may seize and detain any article that the officer reasonably suspects is stolen or unlawfully obtained or may provide evidence of a relevant offence or that is a dangerous article or a prohibited plant or prohibited drug.

Clause 43 contains a power for certain police officers authorised by the proposed section to board vessels to prevent injury, preserve peace and good order or to prevent, detect or investigate offences and sets out powers that may be exercised on boarding a vessel.

Clause 44 confers a power on the commander of an aircraft, or a person authorised by an authorised officer, to search, without a warrant, an aircraft or a person, luggage or freight on an aircraft.

Clause 45 enables certain police officers to search, detain and enter a vessel or aircraft if they reasonably suspect that there is a prohibited plant or prohibited drug in or on the vessel or aircraft in contravention of the *Drug Misuse and Trafficking Act 1985*.

Part 5 Search and seizure powers with warrant or other authority

The provisions of the proposed Part re-enact existing New South Wales legislation.

Division 1 Definitions

Clause 46 contains definitions of terms used in the proposed Part.

Division 2 Police powers relating to warrants

Clause 47 enables a police officer to apply to an authorised officer for a search warrant if the police officer believes on reasonable grounds that there is, or within 72 hours will be, in or on any premises, a thing connected with particular offences or a thing that is stolen or otherwise unlawfully obtained.

Clause 48 enables an authorised officer to issue a search warrant if satisfied there are reasonable grounds for doing so.

Clause 49 provides that a police officer executing a search warrant may seize and detain a thing mentioned in the warrant or connected with an offence.

Clause 50 empowers a police officer to search a person found on the premises whom the officer reasonably suspects of having a thing mentioned in the warrant.

Clause 51 enables a police officer to make certain inquiries if the warrant relates to child prostitution offences.

Clause 52 makes it an offence, without reasonable excuse, to obstruct or hinder a person executing a search warrant.

Division 3 Notices to produce documents

Clause 53 enables a police officer to apply to an authorised officer for a notice to produce documents if the police officer believes on reasonable grounds that an authorised deposit-taking institution holds documents that may be connected with an offence committed by someone else.

Clause 54 provides that an authorised officer may issue a notice if satisfied there are reasonable grounds for suspecting that an authorised deposit-taking institution holds documents that may be connected with an offence committed by someone else and that the institution is not a party to the offence.

Clause 55 requires the authorised officer to include the name of the institution in the notice.

Clause 56 contains a procedure for dealing with claims by an authorised deposit-taking institution that certain documents are privileged.

Clause 57 makes it clear that an authorised deposit-taking institution is not liable for anything done in the honest belief that it was complying with a notice to produce documents but is guilty of an offence if it refuses or fails to comply with a notice without reasonable excuse.

Clause 58 provides that a document produced under the proposed Division is taken to be seized under the proposed Act, which has the effect of making it subject to the safeguards applicable to things seized.

Division 4 Provisions relating generally to warrants and notices to produce documents

Clause 59 sets out the provisions generally applicable to search warrants, crime scene warrants, detention warrants and notices to produce and other specified warrants, while limiting the application of some provisions to things that are not search warrants.

Clause 60 sets out the manner of applying for a warrant in person.

Clause 61 sets out the manner of applying for a warrant by telephone, radio, facsimile or other communication device in urgent circumstances.

Clause 62 sets out the information to be contained in an application for a warrant.

Clause 63 makes it an offence to give false or misleading information in an application for a warrant, knowing it to be false or misleading.

Clause 64 provides that a further application for a warrant after a refusal may not be made to an authorised officer unless justified by additional information but may be made to a Magistrate without such information.

Clause 65 contains requirements as to records to be kept of applications for warrants.

Clause 66 requires a warrant to be in the form prescribed by the regulations.

Clause 67 requires an occupier's notice to be given to a person to whom a warrant is issued and to be served on entry to the premises concerned or as soon as practicable after, unless service is postponed by the issuing authorised officer.

Clause 68 requires a person executing a warrant to make an announcement before entry except where the safety of any person, or the execution of the warrant, may be affected.

Clause 69 requires a person executing a warrant to show the warrant relied on.

Clause 70 enables a person executing a warrant to use reasonable force to enter the premises and to break open receptacles if reasonably necessary to do so.

Clause 71 enables a person executing a warrant to use assistants.

Clause 72 requires a person executing a warrant to execute a warrant by day unless authorised in the warrant to do so by night.

Clause 73 provides for the time at which a warrant expires and the general limits on the period for which warrants may be issued and on extensions of that time.

Clause 74 requires a person executing a warrant to report to the authorised officer who issued it as to its execution, and related matters, within 10 days after the execution of the warrant or the expiry of the warrant, whichever first occurs.

Clause 75 provides for other authorised officers to exercise functions if the original authorised officer who issues a warrant dies, ceases to be an authorised officer or is absent.

Clause 76 provides that a defect does not invalidate a warrant unless it affects the substance of a warrant in a material particular.

Division 5 Miscellaneous

Clause 77 abolishes common law search warrants.

Clause 78 enables the Minister to enter into arrangements in relation to the transmission to or from other States and Territories of things seized under this Act or under the law of another State or Territory, where the thing seized is relevant to the investigation of an offence.

Clause 79 converts certain references.

Clause 80 applies search warrant provisions to electricity and gas legislation.

Part 6 Search, entry and seizure powers relating to domestic violence offences

The provisions of the proposed Part re-enact existing New South Wales legislation.

Clause 81 contains definitions of terms used in the proposed Part.

Clause 82 enables a police officer to enter a dwelling at the invitation of an occupier if the police officer believes on reasonable grounds that a domestic violence offence is being, or may have been recently, committed or is imminent, or is likely to be committed. The police officer may not enter or remain if authority to do so is refused or there is no other authority to do so, except where the invitation was given by a person who the officer believes to be the victim of the offence.

Clause 83 enables a warrant to be applied for if entry is denied and the police officer suspects that the same circumstances exist and entry is necessary to investigate or prevent a domestic violence offence.

Clause 84 makes it an offence, without reasonable excuse, to obstruct or hinder a person executing a domestic violence warrant.

Clause 85 enables a police officer who enters premises under the proposed Part to investigate, render aid to any injured person, exercise a power of arrest, prevent the commission of an offence and inquire for and, if informed that firearms are present, search for firearms.

Clause 86 requires a police officer who enters premises and who believes on reasonable grounds that there is a firearm in a dwelling to apply for a search warrant to search for firearms if informed that there is no firearm in the dwelling. The warrant may authorise any firearms to be seized and detained.

Clause 87 confers on a police officer who lawfully enters a dwelling a power to search for a dangerous article if the police officer believes on reasonable grounds that such an article is in the dwelling and is being, or was, or may have been or may be used to commit a domestic violence offence.

Part 7 Crime scenes

The proposed Part enacts new provisions setting out the powers of police officers in relation to crime scenes.

Clause 88 empowers a police officer who is lawfully on premises (whether under the authority of a crime scene warrant or under any other lawful authority) to establish a crime scene and exercise crime scene powers in accordance with the proposed Part.

Clause 89 applies the proposed Part to all premises whether or not a public place but provides that a crime scene warrant is not necessary in relation to the exercise of crime scene powers in a public place.

Clause 90 sets out the circumstances when a crime scene may be established.

A crime scene may be established on premises by a police officer who suspects on reasonable grounds that an offence committed in connection with a traffic accident (resulting in death or serious injury) or a serious indictable offence is being, or was, or may have been, committed on the premises and that it is reasonably necessary to do so to preserve, or search for and gather, evidence of such an offence. A crime scene may also be established by a police officer who suspects on reasonable grounds that evidence of a serious indictable offence committed elsewhere may be on the premises and that it is reasonably necessary to do so to preserve, or search for and gather, evidence of such an offence.

Clause 91 sets out the way in which a crime scene may be established.

Clause 92 enables a police officer to exercise certain crime scene powers for the purpose of preserving evidence of the commission of an offence. The powers may be exercised for not more than 3 hours unless a crime scene warrant is obtained. A crime scene may not be established more than once at the same place in a 24 hour period unless a crime scene warrant is obtained.

Clause 93 requires a police officer who establishes a crime scene for less than 3 hours to notify a senior police officer of that fact.

Clause 94 enables a police officer to apply to an authorised officer for a crime scene warrant.

Clause 95 sets out the powers that may be exercised at a crime scene. These include powers to give directions to leave or not to enter a crime scene, to remove obstructions, to perform necessary investigations, to conduct examinations or processes, to open things, to use utilities, to seize things, to dig up things, to remove walls or ceilings and other reasonably necessary and incidental powers.

Clause 96 makes it an offence, without reasonable excuse, to obstruct or hinder a person executing a crime scene warrant or to fail or refuse to comply with a direction of a police officer given pursuant to crime scene powers.

Clause 97 provides that the proposed Part does not prevent an application being made for a search warrant, or affect the exercise of any other function at or in relation to a crime scene.

Clause 98 makes it clear that the proposed Part does not confer any additional power of entry or limit any power of entry of a police officer.

Part 8 Powers relating to arrest

The provisions of the proposed Part re-enact existing New South Wales legislation and enact certain provisions reflecting the common law.

Clause 99 sets out the powers of police officers to arrest without a warrant. A police officer may arrest a person if that person is in the act of committing an offence, has just committed an offence, has committed a serious indictable offence for which the person has not yet been tried or if the police officer suspects on reasonable grounds that the person has committed an offence. A police officer must not arrest a person for the purpose of taking proceedings for an offence against the person unless the officer suspects on reasonable grounds that the arrest is necessary to ensure the person's attendance at court or for other purposes relating to the protection of evidence or preventing the repetition of an offence or another offence. An arrested person, and any property on the person, must, as soon as is reasonably practicable, be taken before an authorised officer to be dealt with according to law.

Clause 100 sets out the powers of persons other than police officers to arrest without a warrant. Any such person may arrest another person if that other person is in the act of committing an offence, has just committed an offence or has committed a serious indictable offence for which the person has not yet been tried. An arrested person, and any property on the person, must be taken before an authorised officer to be dealt with according to law.

Clause 101 sets out the power of a police officer to arrest with a warrant and to deal with a person in accordance with a warrant.

Clause 102 sets out the power of a police officer to arrest a person who the police officer suspects on reasonable grounds is unlawfully at large.

Clause 103 sets out the power of a police officer to apply for a warrant for the arrest of a person who is unlawfully at large and enables a warrant to be issued.

Clause 104 sets out the power of a police officer to arrest a person if the police officer suspects on reasonable grounds that the person has committed an interstate offence.

Clause 105 enables a police officer to discontinue an arrest at any time.

Clause 106 provides that a person who, following arrest, is taking part in a covert investigation ceases to be under arrest.

Clause 107 provides that the proposed Part does not affect the power of a police officer to commence proceedings for an offence other than by arresting a person, or the power to deal with offences in other ways (including the issue of a penalty notice).

Clause 108 provides that the proposed Part does not affect the operation of the *Young Offenders Act 1997*.

Part 9 Investigations and questioning

The provisions of the proposed Part re-enact existing New South Wales legislation.

Division 1 Preliminary

Clause 109 sets out the objects of the proposed Part.

Clause 110 contains definitions of terms used in the proposed Part.

Clause 111 sets out the persons to whom the proposed Part applies, who are persons arrested by a police officer for an offence but not persons detained as intoxicated persons.

Clause 112 enables regulations to be made modifying the application of the proposed Part to children, Aboriginal persons or Torres Strait Islanders, persons of non-English speaking background and persons who have a disability.

Clause 113 makes it clear that the proposed Part does not affect certain existing powers of arrest and investigation or certain rights of persons in custody.

Division 2 Investigation and questioning powers

Clause 114 enables a police officer to detain an arrested person for the investigation period for the purpose of investigating whether the person committed the offence for which the person was arrested. Other offences may be investigated and the person must be released, or brought before an authorised officer or court, within the investigation period.

Clause 115 describes the investigation period which is to be a period that is reasonable having regard to the circumstances but is not to exceed 4 hours or such longer period as may be permitted by a detention warrant.

Clause 116 sets out the matters to be taken into account for determining the reasonable investigation period. These include the condition of the person, whether the person's presence is necessary, the number, seriousness and complexity of the offences, the time required for investigation facilities to become available and other matters.

Clause 117 provides that certain times may be disregarded when determining the length of an investigation period, including transport time, times to allow communication with friends, legal advisers and other persons and time spent waiting for medical attention and other specified periods.

Clause 118 enables a police officer, before the end of the investigation period, to apply to an authorised officer for a detention warrant to extend the maximum investigation period by up to 8 hours. The period cannot be extended more than once and a warrant must not be issued unless the authorised officer is satisfied that the further period of detention is reasonably necessary, there is no reasonable alternative means of completing the investigation, the investigation is being conducted diligently and circumstances exist which make it impracticable for the investigation to be completed within the original period.

Clause 119 sets out requirements for detention warrants. An application may be made in person or by telephone and, in the case of a telephone application, information must be transmitted to the authorised officer within one day.

Clause 120 sets out the information that must be provided in an application for a detention warrant.

Clause 121 provides that a court may take into account any period during which a person was detained under the proposed Part when passing sentence on the person.

Division 3 Safeguards relating to persons in custody for questioning

Clause 122 requires the custody manager at a police station or other place of detention to caution the detained person about the use in evidence of anything said by the person and to give the person a summary of the provisions of the proposed Part.

Clause 123 confers on a detained person the right to be informed of the right to communicate or attempt to communicate with a friend, relative, guardian or independent person and a legal practitioner and to be given facilities to do so. Questioning is to be deferred for a reasonable period (of up to 2 hours after the initial communication) to enable this to be done and a legal practitioner must be allowed to be present, if requested, during any investigative procedure.

Clause 124 confers on a detained person who is not an Australian citizen or a permanent Australian resident the right to be informed of the right to communicate or attempt to communicate with a consular official of the country of which the person is a citizen and to be given facilities to do so. Questioning is to be deferred for a period of up to 2 hours after the initial communication to enable this to be done.

Clause 125 sets out the circumstances when the requirements relating to communication with friends and other persons need not be complied with by a custody manager. These include a situation where the custody manager believes that doing so is likely to result in an accomplice avoiding arrest, the concealment, fabrication, destruction or loss of evidence or intimidation of a witness, hindering the recovery of any person or property concerned in the offence or bodily injury being caused to another person.

Clause 126 requires a detained person to be informed of any inquiry as to the person's whereabouts by a friend, relative or guardian and provides for the information to be given unless the detained person does not agree, the custody manager does not believe the person is a friend, relative or guardian or that giving the information may result in an accomplice avoiding arrest, the concealment, fabrication, destruction or loss of evidence or intimidation of a witness, hindering the recovery of any person or property concerned in the offence or bodily injury being caused to another person.

Clause 127 requires a detained person to be informed of any inquiry as to the person's whereabouts by a legal practitioner representing the person, a consular

official or a person in a professional capacity relating to the detained person's welfare and provides for the information to be given unless the detained person does not agree or the custody manager does not believe the person requesting information.

Clause 128 requires the custody manager to provide an interpreter if the custody manager believes on reasonable grounds that the person has inadequate English and cannot communicate with reasonable fluency in English or cannot communicate with reasonable fluency because of disability.

Clause 129 requires the custody manager to provide medical attention to the detained person.

Clause 130 requires the custody manager to provide reasonable refreshments and access to toilet facilities and, if practicable, facilities to wash, shower or bathe.

Clause 131 requires the custody manager to keep a custody record for each detained person and to ensure that a copy is given to the person when taken before a Magistrate, authorised officer or court or when released.

Division 4 Regulations

Clause 132 enables regulations to be made for or with respect to guidelines regarding the exercise of functions conferred or imposed on police officers under the proposed Part, police officers who may act as custody managers and the keeping of records relating to persons who are detained under the proposed Part.

Part 10 Other powers relating to persons in custody

The provisions of the proposed Division re-enact existing New South Wales legislation.

Division 1 Taking of identification particulars

Clause 133 enables a police officer to take or cause to be taken identification particulars necessary to identify a person who is in lawful custody and who has been or is intended to be charged with an offence. A police officer may take or cause to be taken all particulars necessary to identify the person, including photographs, finger-prints and palm-prints (if over 14 years).

Clause 134 provides that a court that finds a specified offence to have been proven against a person may order that the person present himself or herself and submit to the taking of identification particulars. A person who does not present himself or herself may be arrested.

Clause 135 extends the proposed Division to persons in the lawful custody of the police or other authority and extends the powers of the police to the other authority concerned. It also makes it clear that the consent of the person in custody is not required for the taking of action under proposed section 133 or 134.

Clause 136 applies special provisions to children under 14 years, with an order of the Children's Court or an authorised officer being required before identification particulars can be taken.

Clause 137 requires a court, if an offence alleged against a child is found not to be proven against the child, to serve on the child, the parents or guardian of the child or any other person having the care of the child, a notice setting out their right to request the court to order identification particulars relating to the child to be destroyed.

Division 2 Examination of persons in custody

Clause 138 enables a medical practitioner, on the request of a police officer of the rank of sergeant or above, to examine a person in custody for an offence who has been charged with the offence if there are reasonable grounds for believing that the examination will provide evidence as to the commission of the offence.

Part 11 Drug detection powers

The provisions of the proposed Part re-enact existing New South Wales legislation.

Division 1 Drug premises

Clause 139 contains definitions of terms used in the proposed Division.

Clause 140 enables a police officer above the rank of sergeant to apply for a search warrant to search premises if the officer has reasonable grounds to believe that they are being used for the unlawful supply or manufacture of any prohibited drug.

Clause 141 confers powers to pass through land or buildings, to break open doors and do other acts for the purpose of executing a search warrant under the proposed Division.

Clause 142 confers powers on police officers executing search warrants under the proposed Division to search persons, arrest or proceed against persons, seize firearms or prohibited drugs and money and to require persons to disclose their identity.

Clause 143 makes it an offence to obstruct a police officer executing a search warrant under the proposed Division, to fail or refuse to comply with a request to disclose identity or to give a name and address that is false in a material particular or an address that is not full and correct.

Clause 144 makes it clear that the proposed Division does not limit the operation of the *Disorderly Houses Act 1943* or any other law relating to entry onto or searching premises.

Division 2 Use of drug detection dogs

Clause 145 defines *general drug detection*.

Clause 146 gives a police officer authority to use a dog for the purpose of searching a person for the purpose of detecting a drug offence, if the officer is authorised to carry out such a search, and also authorises an officer to be accompanied by a dog under the officer's control if entitled to be on premises. The State or police officer is not liable to any action, liability, claim or demand merely because a dog entered, or was in or on, premises.

Clause 147 authorises a police officer to use a dog to carry out general drug detection, but only as provided by the proposed Division.

Clause 148 enables a police officer to use a dog to carry out general drug detection in relation to persons at or entering or leaving premises where liquor is sold (other than a restaurant), a public place where a sporting event or other entertainment is being held or on or entering a public passenger vehicle or a station, platform or stopping place on a public transport route.

Clause 149 enables a police officer to obtain a warrant authorising the officer to use a dog to carry out general drug detection in a public place.

Clause 150 requires police officers using a dog under the proposed Division to take all reasonable precautions to prevent the dog touching a person and to keep the dog under control. Dogs may be used as part of a covert operation only if authorised by warrant. The proposed Division does not confer any additional power on a police officer to enter premises or detain any person.

Division 3 Use of medical imaging to search for internally concealed drugs

Clause 151 contains definitions of terms used in the proposed Division. Internal searches are defined as searches of a person's body involving an ultrasound, x-ray, CAT scan or other form of medical imaging.

Clause 152 sets out the persons who are eligible judicial officers for the purposes of the proposed Division.

Clause 153 prohibits internal searches under the proposed Division on persons under 10 years.

Clause 154 permits internal searches to be carried out with the informed consent of the suspect or by order of an eligible judicial officer (if a suspect is a child or incapable person or has refused consent).

Clause 155 enables a police officer to detain a person for the purpose of consenting to an internal search if satisfied that the person is a suspect, that the search is likely to produce evidence of an offence relating to the supply of a prohibited drug and the detention is justified in all the circumstances. Detention is to be for not more than 2 hours (if the person is not arrested) or for no longer than 2 hours after the end of an investigation period (if the person is arrested).

Clause 156 sets out the requirements for a request of a suspect for consent to an internal search.

Clause 157 sets out the matters about which a suspect must be informed when a request for consent to an internal search is made.

Clause 158 requires a suspect to be immediately released if no evidence of drugs is found during an internal search or enables a person to be detained for a further period if evidence is found.

Clause 159 enables a police officer to apply in writing to an eligible judicial officer for an order authorising an internal search and the detention of a suspect for that purpose.

Clause 160 sets out requirements for the hearing of an application for an order, including representation rights, the right of a child or incapable person or an Aboriginal person or Torres Strait Islander to have a search friend and, with consent, rights to call and cross-examine witnesses.

Clause 161 enables an eligible judicial officer to make an order authorising an internal search and the detention of a suspect for that purpose if satisfied that the person is a suspect, that the search is likely to produce evidence of an offence relating to the supply of the prohibited drug and the detention is justified in all the circumstances. An order cannot be made if a search would be unsafe and a search of a child involving electromagnetic radiation or radiography may only be carried out on 2 occasions in 2 years, subject to exceptional circumstances. The judicial officer must appoint a search friend to represent the interests of a suspect who is an Aboriginal person, a Torres Strait Islander, a child or an incapable person.

Clause 162 requires an internal search to be carried out by a medical practitioner or an appropriately qualified person and, if one has been appointed, in the presence of the search friend appointed by the eligible judicial officer.

Clause 163 enables the use of any medical procedure or apparatus that the medical practitioner or appropriately qualified person considers reasonably safe in the circumstances.

Clause 164 enables a medical practitioner to take such measures in relation to a detained suspect as are necessary to preserve the suspect's life.

Clause 165 contains rules relating to internal searches, including rules preserving privacy.

Clause 166 prohibits a suspect from being questioned while an internal search is being carried out.

Clause 167 requires a suspect to be cautioned before an internal search is carried out.

Clause 168 prevents a search from being conducted in a cruel, inhuman or degrading manner but makes it clear that the carrying out of an internal search is not of itself cruel, inhuman or degrading.

Clause 169 requires a medical practitioner who conducts an internal search to report to the Commissioner of Police.

Clause 170 sets out a suspect's rights to consult with a legal practitioner and to communicate with another person.

Clause 171 requires a police officer to arrange for an interpreter for a suspect who is unable, because of inadequate knowledge of the English language or physical disability, to communicate orally with reasonable fluency in the English language before seeking consent to a search, cautioning the suspect or taking other specified actions.

Clause 172 provides for an internal search not to proceed where consent is withdrawn, except by order of an eligible judicial officer.

Clause 173 enables a search friend or a legal representative to make requests or objections on behalf of a suspect and requires them to be informed of matters.

Clause 174 requires requests for consent and information about searches, and a suspect's responses, to be recorded electronically if practicable or, if not, in writing.

Clause 175 sets out requirements for police officers in relation to audio and video recordings.

Clause 176 requires material to be made available to a suspect by sending it to his or her last known address or the suspect's legal representative's last known address.

Clause 177 prohibits any charge being made for giving material to a suspect or to view a video recording of the suspect.

Clause 178 sets out the burden of proof relating to matters required to be proved under the proposed Division.

Clause 179 excuses from criminal or civil liability a medical practitioner or appropriately qualified person who carries or helps to carry out an internal search under the proposed Division, if anything done or omitted was done or omitted in good faith in the belief that consent had been given or an order had been made authorising the search.

Clause 180 makes it clear that a medical practitioner or appropriately qualified person is not required to carry out an internal search under the proposed Division.

Clause 181 sets out the relationship of the proposed Division with proposed Part 9.

Clause 182 provides for the detention period to be extended for up to 48 hours by order of an eligible judicial officer, if satisfied, on application by a police officer, that the further period is reasonably necessary to carry out an internal search or to confirm that matter revealed by a search is drugs.

Clause 183 makes it an offence to intentionally or recklessly publish the name of a suspect on whom an internal search is carried out or any information likely to identify the suspect, unless the suspect has been charged with an offence or an eligible judicial officer has authorised the publication.

Clause 184 requires the Minister to establish and update lists of search friends in relation to parts of the State.

Part 12 Powers relating to vehicles and traffic

The provisions of the proposed Part re-enact existing New South Wales legislation.

Division 1 Regulation of traffic

Clause 185 confers power on police officers to give reasonable directions for the safe and efficient regulation of traffic.

Clause 186 confers power on police officers to close roads and road related areas during temporary obstructions to traffic or for any temporary purpose.

Division 2 Other police powers relating to vehicles

Clause 187 enables the Commissioner of Police to authorise the use of tyre deflation devices in connection with police pursuits of vehicles.

Clause 188 enables police officers, authorised by the Commissioner of Police, to enter premises where motor vehicle repairs are carried on for the purpose of inspecting motor vehicles or trailers or parts of motor vehicles or trailers to ascertain whether they are stolen. It will be an offence to wilfully delay or obstruct a police officer exercising any such power.

Division 3 Powers to prevent intoxicated drivers from driving

Clause 189 contains a scheme whereby a police officer may prohibit a person from driving, require ignition and other keys to be handed over and immobilise or detain a vehicle, if of the opinion that the person is under the influence of alcohol or any other drug, or a combination of drugs. The person affected may request a breath test.

Clause 190 sets out the period for which the keys and vehicle may be detained and the persons to whom they may be returned. Application may be made to a Local Court for their return if they are not returned within 24 hours of a request being made.

Clause 191 makes it an offence to fail or refuse to comply with a requirement or prohibition of a police officer under the proposed Division or to attempt to obstruct a police officer in the exercise of a power under the proposed Division.

Clause 192 enables expenses incurred in connection with the immobilisation, removal or detention of a motor vehicle to be recovered from the driver or intending driver or owner of the vehicle as a debt in a court of competent jurisdiction.

Part 13 Use of dogs to detect firearms and explosives

The provisions of the proposed Part re-enact existing New South Wales legislation.

Clause 193 defines *general firearms or explosives detection* and *relevant firearms or explosives offence*.

Clause 194 makes it clear that the proposed Part does not confer any additional power on a police officer to enter premises or to detain any person.

Clause 195 gives a police officer authority to use a dog for the purpose of searching a person for the purpose of detecting a relevant firearms or explosives offence, if the officer is authorised to carry out such a search, and also authorises an officer to be accompanied by a dog if entitled to be on premises. The State or police officer is not liable to any action, liability, claim or demand merely because a dog entered, or was in or on, premises.

Clause 196 authorises a police officer to use a dog to carry out general firearms or explosives detection without a warrant. A police officer using a dog under the proposed Part is required to take all reasonable precautions to prevent the dog touching a person and to keep the dog under control. The proposed section does not affect a search of a person who is reasonably suspected of committing a relevant firearms or explosives offence.

Part 14 Powers to give directions

The provisions of the proposed Part re-enact existing New South Wales legislation.

Clause 197 sets out the powers of police officers to give directions to persons in public places. A direction may be given if a police officer believes on reasonable grounds that a person's behaviour or presence in the place is causing an obstruction, constitutes harassment or intimidation of other persons or is causing or is likely to cause fear to other persons, so long as fear would be caused to a person of reasonable firmness. A direction may also be given if a police officer believes on reasonable grounds that a person's behaviour or presence in the place is for the purpose of unlawfully supplying, or intending to supply, or soliciting to supply a prohibited drug or for the purpose of obtaining, procuring or purchasing a prohibited drug. A direction may be given to a group of persons.

Clause 198 requires a direction to be reasonable in the circumstances for the purpose of reducing or eliminating the obstruction, harassment, intimidation or fear or stopping the supply or soliciting to supply, or the obtaining, procuring or purchasing of the prohibited drug.

Clause 199 makes it an offence, without reasonable excuse, to refuse or fail to comply with a direction under the proposed Part. A person will not be guilty of an offence unless it is proved that the person persisted, after a direction was given, to engage in the relevant conduct.

Clause 200 makes it clear that the proposed Part does not authorise directions to be given in relation to industrial disputes, apparently genuine demonstrations or protests, processions or organised assemblies.

Part 15 Safeguards relating to powers

The provisions of the proposed Part extend safeguards currently applicable to the exercise of some police powers to the broad range of powers.

Clause 201 contains the general safeguards applicable to the exercise by police officers of powers of search, arrest, entry to private premises, seizure of property, detention or stopping of persons, vessels, vehicles and aircraft and powers to require disclosure of identity, establish crime scenes, give directions in public places and require production of certain things. A police officer must, before exercising a power, or as soon as reasonably practicable after exercising a power, provide the person subject to the exercise of the power with evidence that the officer is a police officer, his or her name and place of duty, the reason for the

exercise of the power and a warning that failure or refusal to comply with a request of the police officer in the exercise of the power may be an offence. In the case of a power to request disclosure of identity, to give a direction or to request a person to produce a dangerous implement or metallic object, these requirements must be met before the power is exercised.

Clause 202 provides that the safeguards are not required to be complied with when exercising a power of arrest if the police officer believes on reasonable grounds that it is not reasonably practicable to do so because of the seriousness and urgency of the circumstances.

Clause 203 provides that the safeguards are not required to be complied with when exercising a power to search premises or under a search warrant, if the police officer believes on reasonable grounds that immediate entry is required to ensure the safety of a person or to ensure that the effective execution of a warrant is not frustrated.

Clause 204 requires a police officer not to detain a vehicle, vessel or aircraft for a search for any longer than is necessary for the purpose.

Part 16 Powers relating to intoxicated persons

The provisions of the proposed Part re-enact existing New South Wales legislation.

Clause 205 contains definitions of terms used in the proposed Part.

Clause 206 enables a police officer to detain an intoxicated person found in a public place (including a school) if the person is behaving in a disorderly manner or is in need of physical protection because the person is intoxicated. The intoxicated person is to be taken to a responsible person who is willing to undertake the person's care immediately (such as a family member) or to a police station or children's detention centre if necessary while finding a responsible person or because there is no responsible person or taking the intoxicated person is impracticable or because of the person's violent behaviour.

Clause 207 sets out rules for the treatment of intoxicated persons detained in a police station or children's detention centre, including a requirement not to be detained in a cell (unless it is impracticable to do otherwise), to be provided with food, drink, bedding and blankets and to be released as soon as the person ceases to be an intoxicated person.

Clause 208 enables a police officer or detention officer to search an intoxicated person and to take possession of personal belongings, which are to be returned when the person ceases to be detained.

Clause 209 requires records to be kept of persons detained in a police station or children's detention centre under the proposed Part and to keep the record for a period of 3 years.

Clause 210 excuses from liability a police officer, detention officer or any other person in respect of anything done or omitted to be done in good faith for the execution or purported execution of the proposed Part.

Part 17 Property in police custody

Division 1 Confiscated knives and other dangerous articles and implements

The provisions of the proposed Division re-enact existing New South Wales legislation and extend its operation to seized dangerous articles.

Clause 211 applies the proposed Division to dangerous articles seized under the proposed Act and dangerous implements confiscated under proposed section 28. The proposed Division will not apply if another Act provides for the confiscation of the dangerous article or dangerous implement.

Clause 212 enables an application to be made to the Local Area Commander of Police in the area in which an article or implement was seized or confiscated for the return of the article or implement. The application must be in writing and the article or implement need not be returned if relevant proceedings have not been determined, the person is the subject of a firearms prohibition order or possession of the article or implement is an offence.

Clause 213 provides for an appeal to a Local Court against a failure or refusal to return a dangerous article or implement. On appeal, an order may be made forfeiting the article or implement to the Crown or that it be returned.

Clause 214 provides that a seized dangerous article or confiscated dangerous implement is forfeited to the Crown if an application for its return is not made within 28 days or if an application is made and refused, at the expiration of an appeal provision or on an order that it be forfeited. It may be disposed of by sale or destruction.

Division 2 Other property in police custody

The provisions of the proposed Division extend to property that is not connected with an offence provisions currently applicable only to property in police custody that is connected with an offence and enable courts to determine matters relating to the ownership of property in police custody. The proposed Division also re-enacts provisions of existing New South Wales legislation relating to livestock in police custody.

Clause 215 contains definitions of terms used in the proposed Division.

Clause 216 applies the proposed Division to property that is in police custody, whether or not in connection with an offence but not to dangerous articles or dangerous implements dealt with under proposed Division 1 or to certain livestock.

Clause 217 requires a police officer who seizes a document to allow a person who would otherwise be entitled to it to inspect it at any reasonable time and from time to time and take extracts from it or make copies of it.

Clause 218 requires a police officer who seizes a thing under the proposed Act to return it to the owner or person who had lawful possession of it before it was seized if the police officer is satisfied that its retention for evidence is not required and it is lawful for the person to have possession of the thing.

Clause 219 enables a court, on application by a person, to make an order that property in police custody be returned to the person or be dealt with as the court thinks fit or be forfeited to the Crown and may, for that purpose, adjust property rights and make findings relating to ownership and liability for expenses. Forfeited property that is money is to be paid to the Treasurer for payment to the Consolidated Fund and other property is to be sold by public auction or disposed of as the Commissioner of Police thinks fit if not sold or suitable for sale.

Clause 220 provides that property that is connected with an offence and has not been delivered to the person lawfully entitled to it within 1 month of the determination of the relevant proceedings is, in the case of money, to be paid to the Treasurer for payment to the Consolidated Fund or, in any other case, to be sold by public auction or disposed of as the Commissioner of Police thinks fit if not sold or suitable for sale.

Clause 221 provides that property that is not connected with an offence and has not been delivered to the person lawfully entitled to it may be used for the purposes of

a police integrity testing program. Otherwise it is, in the case of money, to be paid to the Treasurer for payment to the Consolidated Fund or, in any other case, to be sold by public auction or disposed of as the Commissioner of Police thinks fit if not sold or suitable for sale.

Clause 222 enables a police officer to deliver livestock before proceedings are determined if there is no ownership dispute.

Clause 223 enables a police officer to apply to a court for an order to sell livestock the subject of offence proceedings if ownership is not disputed but the location of the owner is unknown. Notice must be published of the intention to apply for an order, of at least 28 days, and the Commissioner of Police may be reimbursed for expenses involved in keeping the livestock.

Clause 224 provides for the sale of livestock on the order of a court if ownership is disputed and no party is prepared to pay the expenses of keeping the livestock or a party fails to do so. The order may also provide for who is to pay the expenses of keeping the livestock in police custody. Notice must be published of the intention to apply for an order, of at least 28 days.

Clause 225 provides that any income or benefit derived from the livestock (including offspring of livestock born in custody) is to be held or applied on behalf of the owner of the livestock.

Clause 226 requires a police officer to notify the parties in dispute as to ownership of livestock of the owner's rights to any income or benefit derived from livestock while in custody.

Clause 227 makes it clear that the provisions relating to ownership are in addition to other provisions under the proposed Division.

Clause 228 enables a person who is lawfully entitled to property dealt with under the proposed Division to recover from the Treasurer the money or proceeds of sale held by the Treasurer.

Clause 229 confers jurisdiction on courts for the purposes of the proposed Division.

Part 18 Use of force

Clause 230 makes it lawful for a police officer exercising a function under the proposed Act or any other Act or law in relation to an individual or a thing, and anyone helping a police officer, to use such force as is reasonably necessary to exercise the function.

Clause 231 empowers a police officer to use such force as is reasonably necessary to make an arrest or prevent the escape of the person after arrest.

Part 19 Miscellaneous

Clause 232 protects police officers in relation to acts done in accordance with warrants or notices to produce if there is an irregularity, a defect or lack of jurisdiction in their issue.

Clause 233 provides that evidence of a thing discovered during or as a result of a search carried out in accordance with the proposed Act is not inadmissible merely because the thing is a dangerous article or dangerous implement of a different nature from that referred to in the reason for the search.

Clause 234 provides that proceedings for an offence against the proposed Act or regulations made under the proposed Act are to be dealt with summarily by a Local Court.

Clause 235 enables penalty notices to be issued for offences under the proposed Act that are prescribed for that purpose by regulations under the proposed Act.

Clause 236 provides that the onus of proof of reasonable excuse in proceedings for an offence against the proposed Act or regulations made under the proposed Act lies on the accused person.

Clause 237 enables the instructions issued to police officers by the Commissioner under the *Police Act 1990* may include instructions and guidelines with respect to functions conferred by or under the proposed Act.

Clause 238 contains the general regulation-making power.

Clause 239 is a formal provision giving effect to the Schedule of repeals.

Clause 240 is a formal provision giving effect to the Schedule of amendments to other Acts and regulations.

Clause 241 is a formal provision giving effect to the Schedule of savings and transitional provisions.

Clause 242 provides for the monitoring of certain new powers by the Ombudsman for a period of 2 years from the commencement of the proposed section.

Clause 243 provides for a review of the proposed Act to be undertaken 3 years after the date of assent to the proposed Act.

Schedule 1 Acts not affected by this Act

The proposed Schedule lists the Acts containing police powers that are not affected by the proposed Act.

Schedule 2 Search warrants under other Acts

The proposed Schedule lists the provisions in Acts applying search warrant provisions.

Schedule 3 Repeals

The proposed Schedule lists the Acts to be repealed by the proposed Act.

Schedule 4 Amendment of other Acts and instruments

The proposed Schedule sets out the amendments to other Acts and instruments to be made by the proposed Act.

Schedule 5 Savings and transitional provisions

The proposed Schedule contains savings and transitional provisions consequent on the enactment of the proposed Act.



New South Wales

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New South Wales

Law Enforcement (Powers and Responsibilities) Bill 2002

No. , 2002

A Bill for

An Act to consolidate and restate the law relating to police and other law enforcement officers' powers and responsibilities; to set out the safeguards applicable in respect of persons being investigated for offences; to repeal certain Acts and to consequentially amend other Acts; and for other purposes.

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Law Enforcement (Powers and Responsibilities) Act 2002*. 4
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2 Commencement 6

This Act commences on a day or days to be appointed by proclamation. 7
8

3 Interpretation 9

(1) In this Act: 10

Aboriginal person means a person who: 11

- (a) is a member of the Aboriginal race of Australia, and 12
- (b) identifies as an Aboriginal person, and 13
- (c) is accepted by the Aboriginal community as an Aboriginal person. 14
15

authorised officer means: 16

- (a) a Magistrate or a Children's Magistrate, or 17
- (b) a Clerk of a Local Court, or 18
- (c) an employee of the Attorney General's Department authorised by the Attorney General as an authorised officer for the purposes of this Act either personally or as the holder of a specified office. 19
20
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Commissioner means the Commissioner of Police. 23

correctional centre has the same meaning as it has in the *Crimes (Administration of Sentences) Act 1999*. 24
25

crime scene means premises established as a crime scene under Part 7. 26

crime scene power means a power set out in section 95. 27

crime scene warrant means a warrant issued under section 94. 28

custody manager means the police officer having from time to time the responsibility for the care, control and safety of a person detained at a police station or other place of detention. 29
30
31

<i>dangerous article</i> means:	1
(a) a firearm, a spare barrel for any such firearm, or any ammunition for any such firearm, or	2 3
(b) a prohibited weapon within the meaning of the <i>Weapons Prohibition Act 1998</i> , or	4 5
(c) a spear gun, or	6
(d) an article or device, not being such a firearm, capable of discharging by any means:	7 8
(i) any irritant matter in liquid, powder, gas or chemical form or any dense smoke, or	9 10
(ii) any substance capable of causing bodily harm, or	11
(e) a fuse capable of use with an explosive or a detonator, or	12
(f) a detonator.	13
<i>drug offence</i> means the possession, control or supply by a person of any prohibited drug or prohibited plant in contravention of the <i>Drug Misuse and Trafficking Act 1985</i> .	14 15 16
<i>dwelling</i> includes:	17
(a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, whether or not it has ever been so occupied, and	18 19 20
(b) a vessel or vehicle in or on which any person resides, and	21
(c) any building or other structure within the same curtilage as a dwelling and occupied with, or the use of which is ancillary to the occupation of, the dwelling.	22 23 24
<i>electronic metal detection device</i> means an electronic device that is capable of detecting the presence of metallic objects.	25 26
<i>exercise</i> a function includes perform a duty.	27
<i>facsimile</i> means facsimile transmission, the internet or any other means of electronic transmission of information in a form from which written material is capable of being reproduced with or without the aid of any other device or article.	28 29 30 31
<i>firearm</i> has the same meaning as it has in the <i>Firearms Act 1996</i> .	32
<i>frisk search</i> means:	33
(a) a search of a person conducted by quickly running the hands over the person's outer clothing or by passing an electronic	34 35

metal detection device over or in close proximity to the person's outer clothing, and	1 2
(b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person, including an examination conducted by passing an electronic metal detection device over or in close proximity to that thing.	3 4 5 6
<i>function</i> includes a power, authority or duty.	7
<i>identity</i> of a person means the name or residential address of the person (or both).	8 9
<i>indictable offence</i> means an offence for which proceedings may be taken on indictment, whether or not proceedings for the offence may also be taken otherwise than on an indictment.	10 11 12
<i>lawful custody</i> means lawful custody of the police.	13
<i>manufacture</i> has the same meaning as it has in the <i>Drug Misuse and Trafficking Act 1985</i> .	14 15
<i>NSW Police</i> means NSW Police established by the <i>Police Act 1990</i> .	16
<i>occupier</i> of premises includes a person in charge of the premises.	17
<i>ordinary search</i> means a search of a person or of articles in the possession of a person that may include:	18 19
(a) requiring the person to remove only his or her overcoat, coat or jacket or similar article of clothing and any gloves, shoes and hat, and	20 21 22
(b) an examination of those items.	23
<i>owner</i> of a vehicle means the responsible person for a vehicle within the meaning of section 7 of the <i>Road Transport (General) Act 1999</i> , and includes:	24 25 26
(a) a person who is not such an owner but who usually has the care, control and custody of the vehicle, and	27 28
(b) any other person prescribed by the regulations for the purposes of this definition.	29 30
<i>parent</i> of a child means the person who has parental responsibility for the child.	31 32
<i>parental responsibility</i> , in relation to a child, means all the duties, powers, responsibilities and authorities which, by law, parents have in relation to their children.	33 34 35

<i>person of non-English speaking background</i> means a person whose first language is not English.	1 2
<i>police officer</i> means a member of NSW Police holding a position that is designated under the <i>Police Act 1990</i> as a position to be held by a police officer.	3 4 5
<i>premises</i> includes any building, structure, vehicle, vessel or aircraft and any place, whether built on or not.	6 7
<i>prohibited drug</i> has the same meaning as it has in the <i>Drug Misuse and Trafficking Act 1985</i> .	8 9
<i>prohibited plant</i> has the same meaning as it has in the <i>Drug Misuse and Trafficking Act 1985</i> .	10 11
<i>prohibited weapon</i> has the same meaning as it has in the <i>Weapons Prohibition Act 1998</i> .	12 13
<i>property</i> has the same meaning as it has in the <i>Crimes Act 1900</i> .	14
<i>public place</i> includes:	15
(a) a place (whether or not covered by water), or part of premises, that is open to the public or is used by the public, whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used and whether or not the public to whom it is open consists only of a limited class of persons, and	16 17 18 19 20 21
(b) a road or road related area,	22
but does not include a school.	23
<i>road</i> means a road within the meaning of the <i>Road Transport (General) Act 1999</i> (other than a road that is the subject of a declaration made under section 9 (1) (b) of that Act).	24 25 26
<i>road related area</i> means a road related area within the meaning of the <i>Road Transport (General) Act 1999</i> (other than a road related area that is the subject of a declaration made under section 9 (1) (b) of that Act).	27 28 29
<i>roadblock authorisation</i> means an authorisation given by a senior police officer under section 37.	30 31
<i>school</i> means:	32
(a) a government school or registered non-government school within the meaning of the <i>Education Act 1990</i> , or	33 34

- (b) a school providing education (whether secular or religious) at a pre-school or infants school level or at a primary or secondary level, or 1
2
3
- (c) a place used for the purposes of an establishment commonly known as a child-minding centre or for similar purposes, or 4
5
- (d) the land, and any building, occupied by or in connection with the conduct of such a school or place, 6
7
- and includes any part of such a school or place, but does not include any building that is occupied or used solely as a residence or solely for a purpose unconnected with the conduct of such a school or place. 8
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10
- senior police officer** means: 11
- (a) a Local Area Commander of Police, or 12
- (b) a Duty Officer for a police station, or 13
- (c) any other police officer of the rank of Inspector or above. 14
- Note.** By virtue of the *Interpretation Act 1987* (section 48 (2)) a person acting in an office referred to above may exercise the functions of a senior police officer under this Act. 15
16
17
- serious indictable offence** means an indictable offence that is punishable by imprisonment for life or for a term of 5 years or more. 18
19
- strip search** means a search of a person or of articles in the possession of a person that may include: 20
21
- (a) requiring the person to remove all of his or her clothes, and 22
- (b) an examination of the person's body (but not of the person's body cavities) and of those clothes. 23
24
- supply** has the same meaning as it has in the *Drug Misuse and Trafficking Act 1985*. 25
26
- telephone** includes radio, facsimile and any other communication device. 27
28
- Torres Strait Islander** means a person who: 29
- (a) is a member of the Torres Strait Island race, and 30
- (b) identifies as a Torres Strait Islander, and 31
- (c) is accepted by the Torres Strait Island community as a Torres Strait Islander. 32
33
- vehicle** includes a registrable vehicle within the meaning of the *Road Transport (Vehicle Registration) Act 1997*. 34
35

<i>vehicle roadblock powers</i> —see section 37.	1
(2) In this Act, a reference to a person who has been charged with an offence is a reference to a person:	2
	3
(a) in respect of whom a charge sheet has been completed by a police officer where proceedings for an offence are to be commenced against the person, or	4
	5
	6
(b) against whom proceedings for an offence have been commenced.	7
	8
(3) Notes in the text of this Act do not form part of this Act.	9
Note. In a heading to a provision of this Act, a reference to the Cth Act is a reference to the <i>Crimes Act 1914</i> of the Commonwealth.	10
	11
4 Relationship to common law and other matters	12
(1) Unless this Act otherwise provides expressly or by implication, this Act does not limit:	13
	14
(a) the functions, obligations and liabilities that a police officer has as a constable at common law, or	15
	16
(b) the functions that a police officer may lawfully exercise, whether under an Act or any other law as an individual (otherwise than as a police officer) including, for example, powers for protecting property.	17
	18
	19
	20
(2) Without limiting subsection (1) and subject to section 9, nothing in this Act affects the powers conferred by the common law on police officers to deal with breaches of the peace.	21
	22
	23
5 Relationship to other Acts	24
(1) This Act does not limit the functions that a police officer has under an Act or regulation specified in Schedule 1.	25
	26
(2) The regulations may amend Schedule 1 by adding the name of an Act or a regulation to the Schedule.	27
	28
(3) However, a police officer may exercise a function under this Act for the purpose of giving effect to an Act or regulation referred to in subsection (1).	29
	30
	31

6 Inconsistency	1
(1) This section applies to a provision of another Act or regulation that confers functions on a police officer or other person (other than a provision of an Act or regulation referred to in section 5 (1)).	2 3 4
(2) To the extent of any inconsistency, this Act prevails over an Act or regulation to which this section applies.	5 6
(3) A provision of an Act enacted after the commencement of this section is not to be interpreted as amending or repealing, or otherwise altering the effect or operation of, a provision of this Act.	7 8 9
(4) Subsection (3) does not affect the interpretation of a provision of an Act so far as that Act directly amends or repeals a provision of this Act or expressly provides for that Act to have effect despite a specified provision, or despite any provision, of this Act.	10 11 12 13
7 Provisions in this Act	14
Nothing in any Part of this Act limits any functions, or prevents a police officer from exercising any functions, that the police officer has under any other Part of this Act.	15 16 17
Note. The general functions of police officers and other members of NSW Police, and matters relating to police discipline, are dealt with in the <i>Police Act 1990</i> . For other Acts containing significant police and law enforcement powers, see Schedule 1.	18 19 20 21
8 Act to bind Crown	22
This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.	23 24 25

Part 2 Powers of entry

1

Note. Safeguards containing requirements relating to the exercise of powers under this Part are set out in Part 15.

2

3

9 Power to enter in emergencies

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(1) A police officer may enter premises if the police officer believes on reasonable grounds that:

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(a) a breach of the peace is being or is likely to be committed and it is necessary to enter the premises immediately to end or prevent the breach of peace, or

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8

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(b) a person has suffered significant physical injury or there is imminent danger of significant physical injury to a person and it is necessary to enter the premises immediately to prevent further significant physical injury or significant physical injury to a person.

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11

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(2) A police officer who enters premises under this section is to remain on the premises only as long as is reasonably necessary in the circumstances.

15

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10 Power to enter to arrest or detain someone or execute warrant

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(1) A police officer may enter and stay for a reasonable time on premises to arrest a person, or detain a person under an Act, or arrest a person named in a warrant.

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20

21

(2) However, the police officer may enter a dwelling to arrest or detain a person only if the police officer believes on reasonable grounds that the person to be arrested or detained is in the dwelling.

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23

24

(3) A police officer who enters premises under this section may search the premises for the person.

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(4) This section does not authorise a police officer to enter premises to detain a person under an Act if the police officer has not complied with any requirements imposed on the police officer under that Act for entry to premises for that purpose.

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(5) In this section:

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arrest of a person named in a warrant includes apprehend, take into custody, detain, and remove to another place for examination or treatment.

32

33

34

Part 3 Powers to require identity to be disclosed	1
Division 1 General power to require identity to be disclosed	2
11 Identity may be required to be disclosed (cf Crimes Act 1900, s 563)	3
A police officer may request a person whose identity is unknown to the officer to disclose his or her identity if the officer suspects on reasonable grounds that the person may be able to assist in the investigation of an alleged indictable offence because the person was at or near the place where the alleged indictable offence occurred, whether before, when, or soon after it occurred.	4 5 6 7 8 9
Note. Section 201 sets out safeguards relating to such a request.	10
12 Failure of person to disclose identity on request (cf Crimes Act 1900, s 563)	11
A person who is requested by a police officer in accordance with sections 11 and 201 to disclose his or her identity must not, without reasonable excuse, fail or refuse to comply with the request.	12 13 14
Maximum penalty: 2 penalty units.	15
13 False or misleading information about identity (cf Crimes Act 1900, s 563)	16
A person must not, without reasonable excuse, in response to a request made by a police officer in accordance with this Division:	17 18
(a) give a name that is false in a material particular, or	19
(b) give an address other than the person's full and correct address.	20
Maximum penalty: 2 penalty units.	21
Division 2 Powers to require identity of drivers and passengers to be disclosed	22 23
14 Power of police officer to request disclosure of driver or passenger identity (cf Police Powers (Vehicles) Act 1998, s 6)	24 25
(1) A police officer who suspects on reasonable grounds that a vehicle is being, or was, or may have been used in or in connection with an	26 27

indictable offence may make any one or more of the following requests:	1
	2
(a) a request that the driver of the vehicle disclose his or her identity and the identity of any passenger in or on the vehicle at or about the time the vehicle was or may have been so used,	3
	4
	5
(b) a request that any passenger in or on the vehicle disclose his or her identity and the identity of the driver of, or any other passenger in or on, the vehicle at or about the time the vehicle was or may have been so used,	6
	7
	8
	9
(c) a request that any owner of the vehicle (who was or was not the driver or a passenger) disclose the identity of the driver of, and any passenger in or on, the vehicle at or about the time the vehicle was or may have been so used.	10
	11
	12
	13
Note. Section 201 sets out safeguards containing requirements relating to such a request.	14
	15
(2) Nothing in this section limits the operation of section 11.	16
15 Failure of driver to disclose identity (cf Police Powers (Vehicles) Act 1998, s 7)	17
(1) The driver of a vehicle who is requested by a police officer in accordance with sections 14 and 201 to disclose his or her identity must not, without reasonable excuse, fail or refuse to comply with the request.	18
	19
	20
	21
Maximum penalty: 50 penalty units or 12 months imprisonment, or both.	22
	23
(2) The driver of a vehicle who is requested by a police officer in accordance with sections 14 and 201 to disclose the identity of any passenger in or on the vehicle must (unless the driver has a reasonable excuse for not doing so):	24
	25
	26
	27
(a) disclose the identity of the passenger, or	28
(b) if the driver does not know the full and correct identity of the passenger—disclose such information about the passenger's identity (such as any alias used by the person or the general location of his or her residential address) as is known to the driver.	29
	30
	31
	32
	33
Maximum penalty: 50 penalty units or 12 months imprisonment, or both.	34
	35
Note. Section 201 sets out safeguards containing requirements relating to such requests.	36
	37

16	Failure of passenger to disclose identity (cf Police Powers (Vehicles) Act 1998, s 7A)	1
		2
(1)	A passenger in or on a vehicle who is requested by a police officer in accordance with sections 14 and 201 to disclose his or her identity must not, without reasonable excuse, fail or refuse to comply with the request.	3
		4
		5
		6
	Maximum penalty: 50 penalty units or 12 months imprisonment, or both.	7
		8
(2)	A passenger in or on a vehicle who is requested by a police officer in accordance with sections 14 and 201 to disclose the identity of the driver of, or any other passenger in or on, the vehicle must (unless the passenger has a reasonable excuse for not doing so):	9
		10
		11
		12
(a)	disclose the full and correct identity of the driver or other passenger, or	13
		14
(b)	if the passenger does not know the full and correct identity of the passenger—disclose such information about the driver’s or other passenger’s identity (such as any alias used by the person or the general location of his or her residential address) as is known to the passenger.	15
		16
		17
		18
		19
	Maximum penalty: 50 penalty units or 12 months imprisonment, or both.	20
		21
	Note. Section 201 sets out safeguards containing requirements relating to such requests.	22
		23
17	Failure of owner to disclose identity (cf Police Powers (Vehicles) Act 1998, s 8)	24
		25
(1)	An owner of a vehicle who is requested in accordance with sections 14 and 201 by a police officer to disclose the identity of the driver of, or a passenger in or on, the vehicle must (unless the owner has a reasonable excuse for not doing so):	26
		27
		28
		29
(a)	disclose the identity of any person the owner knows or has reason to suspect was the driver or a passenger, or	30
		31
(b)	if the owner does not know the full and correct identity of the person—disclose such information about the person’s identity (such as any alias used by the person or the general location of his or her residential address) as is known to the owner.	32
		33
		34
		35
	Maximum penalty: 50 penalty units or 12 months imprisonment, or both.	36
		37

(2) Subsection (1) extends to an owner of a vehicle who was the driver of, or a passenger in or on, the vehicle.	1 2
(3) Without limitation, for the purposes of this section, an owner has reason to suspect a person was the driver of, or a passenger in or on, a vehicle if the owner has reason to suspect that a person had access to the vehicle.	3 4 5 6
Note. Section 201 sets out safeguards containing requirements relating to such requests.	7 8
18 False or misleading information about identity (cf Police Powers (Vehicles) Act 1998, s 9)	9 10
A person must not, without reasonable excuse, in response to a request made by a police officer in accordance with section 14:	11 12
(a) give a name that is false in a material particular, or	13
(b) give an address other than the person's full and correct address or the full and correct address of the driver's or passenger's residence known to the person (as may be required).	14 15 16
Maximum penalty: 50 penalty units or 12 months imprisonment, or both.	17 18
Division 3 Proof of identity	19
19 Power of police officer to request proof of identity (cf Crimes Act 1900, s 563)	20 21
A police officer may request a person who is requested under this Part to disclose his or her identity to provide proof of his or her identity.	22 23

Part 4 Search and seizure powers without warrant	1
Note. Safeguards relating to the exercise of powers under this Part are set out in Part 15.	2
Division 1 General personal search and seizure powers	3
20 Relevant offences	4
The following offences are <i>relevant offences</i> for the purposes of this Division:	5
(a) indictable offences,	6
(b) an offence against section 545E of the <i>Crimes Act 1900</i> ,	7
(c) an offence against the <i>Weapons Prohibition Act 1998</i> , the <i>Firearms Act 1996</i> , or a regulation made under either of those Acts.	8
21 Power to search persons and seize and detain things without warrant (cf Crimes Act 1900, ss 357, 357E, Drug Misuse and Trafficking Act 1985, s 37)	9
(1) A police officer may, without a warrant, stop, search and detain a person, and anything in the possession of or under the control of the person, if the police officer suspects on reasonable grounds that any of the following circumstances exists:	10
(a) the person has in his or her possession or under his or her control anything stolen or otherwise unlawfully obtained,	11
(b) the person has in his or her possession or under his or her control anything used or intended to be used in or in connection with the commission of a relevant offence,	12
(c) the person has in his or her possession or under his or her control in a public place a dangerous article that is being or was used in or in connection with the commission of a relevant offence,	13
(d) the person has in his or her possession or under his or her control, in contravention of the <i>Drug Misuse and Trafficking Act 1985</i> , a prohibited plant or a prohibited drug.	14
(2) A police officer may seize and detain:	15
(a) all or part of a thing that the police officer suspects on reasonable grounds is stolen or otherwise unlawfully obtained, and	16

(b)	all or part of a thing that the police officer suspects on reasonable grounds may provide evidence of the commission of a relevant offence, and	1 2 3
(c)	any dangerous article, and	4
(d)	any prohibited plant or prohibited drug in the possession or under the control of a person in contravention of the <i>Drug Misuse and Trafficking Act 1985</i> ,	5 6 7
	found as a result of a search under this section.	8
22	Power to seize and detain dangerous articles on premises (cf Crimes Act 1900, s 357)	9 10
	A police officer who is lawfully on any premises may seize and detain any dangerous article that the police officer finds on the premises, if the police officer suspects on reasonable grounds that the dangerous article is being or was used in or in connection with the commission of a relevant offence.	11 12 13 14 15
	Note. Premises include vessels, vehicles, aircraft and other places.	16
Division 2	Searches of persons on arrest or while in custody	17
23	Power to carry out search on arrest (cf Cth Act, s 3ZE, common law)	18
(1)	A police officer who arrests a person for an offence or under a warrant, or who is present at the arrest, may search the person at or after the time of arrest, if the officer suspects on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything:	19 20 21 22 23
(a)	that would present a danger to a person, or	24
(b)	that could be used to assist a person to escape from lawful custody, or	25 26
(c)	that is a thing with respect to which an offence has been committed, or	27 28
(d)	that is a thing that will provide evidence of the commission of an offence, or	29 30
(e)	that was used, or is intended to be used, in or in connection with the commission of an offence.	31 32

(2)	A police officer who arrests a person for the purpose of taking the person into lawful custody, or who is present at the arrest, may search the person at or after the time of arrest, if the officer suspects on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything:	1
		2
		3
		4
		5
(a)	that would present a danger to a person, or	6
(b)	that could be used to assist a person to escape from lawful custody.	7
		8
(3)	A police officer may seize and detain a thing found in a search if it is a thing of a kind referred to in subsection (1) or (2).	9
		10
(4)	Nothing in this section limits section 24.	11
24	Power to carry out search of person in custody (cf Cth Act, s 3ZH, common law)	12
		13
	A police officer may search a person who is in lawful custody (whether at a police station or at any other place) and seize and detain anything found on that search.	14
		15
		16
Division 3	Additional personal search and seizure powers in public places and schools	17
		18
25	Definitions	19
	In this Division:	20
	<i>dangerous implement</i> means:	21
(a)	a dangerous article, or	22
(b)	a knife, or	23
(c)	any other implement made or adapted for use for causing injury to a person, or	24
		25
(d)	anything intended, by the person having custody of the thing, to be used to injure or menace a person or damage property,	26
		27
	but does not include anything that is of a class or description declared by the regulations to be excluded from this definition.	28
		29
	<i>knife</i> includes:	30
(a)	a knife blade, and	31

(b)	a razor blade, and	1
(c)	any other blade,	2
	but does not include anything that is of a class or description declared by the regulations to be excluded from this definition.	3 4
	<i>locker</i> includes any facility for the storage of a student's personal effects at a school.	5 6
26	Power to search for knives and other dangerous implements (cf Summary Offences Act 1988, s 28A)	7 8
(1)	A police officer may request a person who is in a public place or a school to submit to a frisk search if the police officer suspects on reasonable grounds that the person has a dangerous implement in his or her custody.	9 10 11 12
(2)	If the person is in a school and is a student at the school, the police officer may also request that the person submit to a search of the person's locker at the school and an examination of any bag or other personal effect that is inside the locker.	13 14 15 16
(3)	For the purposes of this section, the fact that a person is present in a location with a high incidence of violent crime may be taken into account in determining whether there are reasonable grounds to suspect that the person has a dangerous implement in his or her custody.	17 18 19 20 21
(4)	In conducting a search of a person under this section, a police officer must, in the case of a search of a student in a school and if reasonably possible to do so, allow the student to nominate an adult who is on the school premises to be present during the search.	22 23 24 25
(5)	In conducting a search of a person under this section, a police officer may request the person to produce either or both of the following:	26 27
(a)	anything that the police officer has detected or seen on or with the person during the search and has reasonable grounds to suspect is a dangerous implement,	28 29 30
(b)	anything detected during the search by an electronic metal detection device that the device indicates is of a metallic nature.	31 32
(6)	If a police officer has complied with this section and section 201 in requesting that a person submit to a search and the person initially refuses to submit to the search, the police officer may again request the	33 34 35

person to submit to the search and, in that case, must again warn the person that failure to submit to the search may be an offence.	1 2
Note. Under section 201, a police officer must when making the initial request give a warning that failure to comply with a request may be an offence.	3 4
27 Failure to comply with requests relating to search and dangerous implements	5 6
A person must not, without reasonable excuse:	7
(a) fail or refuse to produce anything detected or seen on or with the person in such a search when requested to do so by a police officer in accordance with sections 26 and 201, or	8 9 10
(b) fail or refuse to comply with a request made by a police officer in accordance with sections 26 and 201 for the person to submit to a search.	11 12 13
Maximum penalty: 5 penalty units.	14
28 Power to confiscate knives or other dangerous implements (cf Summary Offences Act 1988, s 28B)	15 16
(1) A police officer may, in a public place or school:	17
(a) take possession of anything that the police officer has reasonable grounds to suspect is a dangerous implement that is unlawfully in a person's custody, and	18 19 20
(b) confiscate the thing.	21
(2) Any such confiscated thing is to be dealt with in accordance with Division 1 of Part 17.	22 23
Division 4 Provisions relating generally to personal searches	24
29 Application of Division	25
This Division applies to any search of a person carried out, or authorised to be carried out, by a police officer or other person under this Act (other than an internal search under Division 3 of Part 11), except as otherwise provided by this Act or the regulations.	26 27 28 29

30	Frisk searches and ordinary searches	1
(1)	A police officer or other person who is authorised to search a person may carry out a frisk search or an ordinary search of the person for any purpose for which the search may be conducted.	2 3 4
(2)	In conducting a frisk search, a police officer or other person may, if the police officer or other person has asked the person to remove a coat or jacket, treat the person's outer clothing as being the person's outer clothes after the coat or jacket has been removed.	5 6 7 8
31	Strip searches (cf common law)	9
	A police officer or other person who is authorised to search a person may conduct a strip search of the person if the police officer or other person suspects on reasonable grounds that it is necessary to conduct a strip search of the person for the purposes of the search and that the seriousness and urgency of the circumstances require the strip search to be carried out.	10 11 12 13 14 15
32	Preservation of privacy and dignity during search	16
(1)	A police officer or other person who searches a person must, as far as is reasonably practicable in the circumstances, comply with this section.	17 18 19
(2)	The police officer or other person must inform the person to be searched of the following matters:	20 21
(a)	whether the person will be required to remove clothing during the search,	22 23
(b)	why it is necessary to remove the clothing.	24
(3)	The police officer or other person must ask for the person's co-operation.	25 26
(4)	The police officer or other person must conduct the search:	27
(a)	in a way that provides reasonable privacy for the person searched, and	28 29
(b)	as quickly as is reasonably practicable.	30
(5)	The police officer or other person must conduct the least invasive kind of search practicable in the circumstances.	31 32
(6)	The police officer or other person must not search the genital area of the person searched, or in the case of female or a transgender person	33 34

who identifies as a female, the person's breasts unless the police officer or person suspects on reasonable grounds that it is necessary to do so for the purposes of the search.	1 2 3
(7) A search must be conducted by a police officer or other person of the same sex as the person searched or by a person of the same sex under the direction of the police officer or other person concerned.	4 5 6
(8) A search of a person must not be carried out while the person is being questioned. If questioning has not been completed before a search is carried out, it must be suspended while the search is carried out.	7 8 9
(9) A person must be allowed to dress as soon as a search is finished.	10
(10) If clothing is seized because of the search, the police officer or other person must ensure the person searched is left with or given reasonably appropriate clothing.	11 12 13
(11) In this section:	14
<i>questioning</i> of a person means questioning the person, or carrying out an investigation (in which the person participates).	15 16
<i>transgender person</i> means a person, whether or not the person is a recognised transgender person:	17 18
(a) who identifies as a member of the opposite sex, by living, or seeking to live, as a member of the opposite sex, or	19 20
(b) who has identified as a member of the opposite sex by living as a member of the opposite sex, or	21 22
(c) who, being of indeterminate sex, identifies as a member of a particular sex by living as a member of that sex,	23 24
and includes a reference to the person being thought of as a transgender person, whether or not the person is, or was, in fact a transgender person.	25 26 27
33 Rules for conduct of strip searches (cf Cth Act, s 3Zl)	28
(1) A police officer or other person who strip searches a person must, as far as is reasonably practicable in the circumstances, comply with the following:	29 30 31
(a) the strip search must be conducted in a private area,	32
(b) the strip search must not be conducted in the presence or view of a person who is of the opposite sex to the person being searched,	33 34 35

-
- (c) except as provided by this section, the strip search must not be conducted in the presence or view of a person whose presence is not necessary for the purposes of the search. 1
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- (2) A parent, guardian or personal representative of the person being searched may, if it is reasonably practicable in the circumstances, be present during a search if the person being searched has no objection to that person being present. 4
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- (3) A strip search of a child who is at least 10 years of age but under 18 years of age, or of a person who has impaired intellectual functioning, must, unless it is not reasonably practicable in the circumstances, be conducted in the presence of a parent or guardian of the person being searched or, if that is not acceptable to the child or person, in the presence of another person (other than a police officer) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person. 8
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- (4) A strip search must not involve a search of a person's body cavities or an examination of the body by touch. 16
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- (5) A strip search must not involve the removal of more clothes than the person conducting the search believes on reasonable grounds to be reasonably necessary for the purposes of the search. 18
19
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- (6) A strip search must not involve more visual inspection than the person conducting the search believes on reasonable grounds to be reasonably necessary for the purposes of the search. 21
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- (7) A strip search may be conducted in the presence of a medical practitioner of the opposite sex to the person searched if the person being searched has no objection to that person being present. 24
25
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- (8) This section is in addition to the other requirements of this Act relating to searches. 27
28
- (9) In this section: 29
- impaired intellectual functioning*** means: 30
- (a) total or partial loss of a person's mental functions, or 31
- (b) a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction, 32
33
or 34

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	(c) a disorder, illness or disease that affects a person's thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour.	1 2 3
	Note. Procedures for searches of a more invasive nature are dealt with under the <i>Crimes (Forensic Procedures) Act 2000</i> .	4 5
34	No strip searches of children under 10 years	6
	A strip search must not be conducted on a person who is under the age of 10 years.	7 8
Division 5	Vehicle entry, search and roadblock powers	9
35	Relevant offences	10
	The following offences are <i>relevant offences</i> for the purposes of this Division:	11 12
	(a) indictable offences,	13
	(b) an offence against section 545E of the <i>Crimes Act 1900</i> ,	14
	(c) an offence against the <i>Weapons Prohibition Act 1998</i> , the <i>Firearms Act 1996</i> , or a regulation made under either of those Acts.	15 16 17
36	Power to search vehicles and seize things without warrant (cf Crimes Act 1900, ss 357, 357E, Police Powers (Vehicles) Act 1998, s 10, Drug Misuse and Trafficking Act 1985, s 37)	18 19 20
	(1) A police officer may, without a warrant, stop, search and detain a vehicle if the police officer suspects on reasonable grounds that any of the following circumstances exists:	21 22 23
	(a) the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, anything stolen or otherwise unlawfully obtained,	24 25 26
	(b) the vehicle is being, or was, or may have been, used in or in connection with the commission of a relevant offence,	27 28
	(c) the vehicle contains anything used or intended to be used in or in connection with the commission of a relevant offence,	29 30
	(d) the vehicle is in a public place or school and contains a dangerous article that is being, or was, or may have been, used in or in connection with the commission of a relevant offence,	31 32 33

(e)	the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, a prohibited plant or prohibited drug in contravention of the <i>Drug Misuse and Trafficking Act 1985</i> ,	1 2 3 4
(f)	circumstances exist on or in the vicinity of a public place or school that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.	5 6 7
(2)	A police officer may, without a warrant, stop, search and detain a class of vehicles on a road, road related area or other public place or school if the police officer suspects on reasonable grounds that any of the following circumstances exist:	8 9 10 11
(a)	a vehicle of the specified class of vehicles is being, or was, or may have been, used in or in connection with the commission of an indictable offence and the exercise of the powers may provide evidence of the commission of the offence,	12 13 14 15
(b)	circumstances exist on or in the vicinity of a public place or school that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.	16 17 18
(3)	A police officer may seize and detain:	19
(a)	all or part of a thing that the police officer suspects on reasonable grounds is stolen or otherwise unlawfully obtained, and	20 21 22
(b)	all or part of a thing that the police officer suspects on reasonable grounds may provide evidence of the commission of a relevant offence, and	23 24 25
(c)	any dangerous article, and	26
(d)	any prohibited plant or prohibited drug in the possession or under the control of a person in contravention of the <i>Drug Misuse and Trafficking Act 1985</i> ,	27 28 29
	found as a result of a search under this section.	30
37	Powers to stop vehicles and erect roadblocks (cf Police Powers (Vehicles) Act 1998, s 10)	31 32
(1)	For the purposes of this Act, the following are <i>vehicle roadblock powers</i> :	33 34
(a)	the power to establish a roadblock (consisting of any appropriate form of barrier or obstruction preventing or limiting	35 36

the passage of vehicles) on any specified road, road related area or other public place or school,	1
(b) the power to stop vehicles at a roadblock.	2
(2) A senior police officer may authorise another police officer to exercise any or all of the vehicle roadblock powers in respect of any specified vehicle (or class of vehicles) on a road, road related area or other public place or school if the senior police officer suspects on reasonable grounds that:	3
(a) the vehicle (or a vehicle of the specified class of vehicles) is being, or was, or may have been, used in or in connection with the commission of an indictable offence and the exercise of the powers may provide evidence of the commission of the offence, or	4
(b) circumstances exist on or in the vicinity of that road, road related area, place or school that are likely to give rise to a serious risk to public safety and the exercise of the powers may lessen the risk.	5
(3) A police officer may exercise vehicle roadblock powers without obtaining an authorisation by a senior police officer if the police officer suspects on reasonable grounds that it is necessary to exercise the powers and that the seriousness and urgency of the circumstances require the powers to be exercised without obtaining the authorisation.	6
(4) A police officer who acts under subsection (3) must notify a senior police officer as soon as practicable and obtain an authorisation for any ongoing action.	7
38 Power to give reasonable directions (cf Police Powers (Vehicles) Act 1998, s 10)	8
A police officer who exercises a search power under this Division, or who is authorised to exercise a vehicle roadblock power under this Division, has the power to give reasonable directions (to facilitate the exercise of the power) to any person:	9
(a) in or on the vehicle concerned, or	10
(b) on or in the vicinity of a road, road related area or other public place or school.	11

39	Failure to comply with directions (cf Police Powers (Vehicles) Act 1998, s 10)	1
	A person must not, without reasonable excuse:	2
	(a) fail or refuse to stop a vehicle the person is driving when directed to do so by a police officer under this Division, or	3 4
	(b) fail or refuse to comply with any other direction given by a police officer under this Division.	5 6
	Maximum penalty: 50 penalty units or 12 months imprisonment, or both.	7 8
40	Duration and form of roadblock authorisation (cf Police Powers (Vehicles) Act 1998, s 11)	9 10
	(1) A roadblock authorisation may be given either verbally (including by telephone, radio or other communication device) or in writing (including facsimile).	11 12 13
	(2) A roadblock authorisation has effect for a period of 6 hours (or such lesser period as may be specified by the senior police officer giving the authorisation).	14 15 16
	(3) Nothing in this section prevents a senior police officer from giving a further roadblock authorisation in respect of the same vehicle (or class of vehicles) on a road, road related area or other public place or school.	17 18 19
41	Record of roadblock authorisation (cf Police Powers (Vehicles) Act 1998, s 12)	20
	(1) A senior police officer who gives a roadblock authorisation must:	21
	(a) if the authorisation is in writing—specify the following:	22
	(i) the date on, and time at, which the authorisation is given,	23 24
	(ii) the vehicle roadblock powers conferred by the authorisation and the indictable offence or risk to public safety in respect of which the authorisation is given,	25 26 27
	(iii) the road, road related area or other public place or school in respect of which the authorisation is given,	28 29
	(iv) the vehicle (or class of vehicles) in respect of which the authorisation is given,	30 31
	(v) the period of the authorisation if the period is less than 6 hours, or	32 33
	(b) if the authorisation is given verbally—make a record as soon as is reasonably practicable after the giving of the authorisation of the matters referred to in paragraph (a).	34 35 36

- (2) A failure to comply with subsection (1) does not invalidate a roadblock authorisation. 1
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Division 6 Vessel and aircraft entry and search powers 3

42 Power to search vessels and aircraft and seize things without warrant 4
(cf Crimes Act 1900, ss 357, 357D, 357E) 5

- (1) A police officer may, without a warrant, stop, search and detain a vessel or an aircraft if the police officer suspects on reasonable grounds that any of the following circumstances exists: 6
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- (a) the vessel or aircraft contains, or a person in the vessel or aircraft has in his or her possession or under his or her control, anything stolen or otherwise unlawfully obtained, 9
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11
 - (b) the vessel or aircraft is being or was used in or in connection with the commission of a relevant offence, 12
13
 - (c) the vessel or aircraft contains anything used or intended to be used in or in connection with the commission of a relevant offence, 14
15
16
 - (d) the vessel or aircraft is in a public place and contains a dangerous article that is being or was used in or in connection with the commission of a relevant offence. 17
18
19
- (2) A police officer may seize and detain: 20
- (a) all or part of a thing that the police officer suspects on reasonable grounds is stolen or otherwise unlawfully obtained, and 21
22
23
 - (b) all or part of a thing that the police officer suspects on reasonable grounds may provide evidence of the commission of a relevant offence, and 24
25
26
 - (c) any dangerous article, and 27
 - (d) any prohibited plant or prohibited drug in the possession or under the control of a person in contravention of the *Drug Misuse and Trafficking Act 1985*, 28
29
30
- found as a result of a search under this section. 31
- (3) The following offences are **relevant offences** for the purposes of this section: 32
33
- (a) indictable offences, 34

-
- (b) an offence against section 545E of the *Crimes Act 1900*, 1
- (c) an offence against the *Weapons Prohibition Act 1998*, the 2
Firearms Act 1996, or a regulation made under either of those 3
Acts. 4
- 43 Power to board vessels** (cf Crimes Act 1900, s 357C) 5
- (1) A police officer authorised by this section may, without a warrant, with 6
as many other police officers as he or she thinks necessary, take the 7
actions set out in subsection (2) if the police officer suspects on 8
reasonable grounds that it is necessary to do so: 9
- (a) to prevent, on a vessel, injury to people or damage to property 10
by fire or otherwise, or 11
- (b) to preserve peace and good order on a vessel, or 12
- (c) to prevent, detect or investigate any offence that may be, or may 13
have been, committed on a vessel. 14
- (2) The police officer may take any one or more of the following actions: 15
- (a) enter into any part of any vessel, 16
- (b) search and inspect the vessel, 17
- (c) take all necessary measures for preventing, on the vessel, injury 18
to persons or damage to property by fire or otherwise, 19
- (d) take all necessary measures for preserving peace and good order 20
on the vessel or for preventing, detecting or investigating any 21
offences that may be, or may have been, committed on the 22
vessel. 23
- (3) The following police officers are authorised by this section: 24
- (a) a police officer of or above the rank of sergeant, 25
- (b) a police officer in charge of a police station, 26
- (c) a police officer in charge of a police vessel. 27
- 44 Power to search aircraft for safety reasons** (cf Crimes Act 1900, s 357A) 28
- (1) An authorised person may, without a warrant, search an aircraft, any 29
person on board or about to board an aircraft, or any luggage or freight 30
on board an aircraft, or about to be placed on board an aircraft, if the 31
person suspects on reasonable grounds that an offence involving the 32
safety of the aircraft is being, or was, or may have been, or may be, 33
committed on board or in relation to the aircraft. 34

(2)	The following persons are authorised persons for the purposes of this section:	1
		2
(a)	the commander of the aircraft,	3
(b)	a person authorised in writing by an authorised officer, on the basis of a suspicion referred to in subsection (1), to carry out a search under this section.	4
		5
		6
(3)	A search of a person conducted under this section must be conducted by a person of the same sex as the person being searched.	7
		8
45	Search powers relating to prohibited plants and prohibited drugs (cf Drug Misuse and Trafficking Act 1985, s 37)	9
		10
(1)	A police officer authorised by this section may, without a warrant, with as many other police officers as he or she thinks necessary, take the actions set out in subsection (2) if the police officer reasonably suspects that there is in a vessel or aircraft a prohibited plant or prohibited drug that is, in contravention of the <i>Drug Misuse and Trafficking Act 1985</i> , in the possession or under the control of any person.	11
		12
		13
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		17
(2)	The police officer may take the following actions:	18
(a)	stop and detain the vessel or aircraft,	19
(b)	enter into any part of the vessel or aircraft,	20
(c)	search and inspect the vessel or aircraft.	21
(3)	The following police officers are authorised by this section:	22
(a)	a police officer of or above the rank of sergeant,	23
(b)	a police officer in charge of a police station,	24
(c)	a police officer in charge of a police vessel.	25

Part 5 Search and seizure powers with warrant or other authority	1
	2
Note. Safeguards relating to the exercise of powers under this Part are set out in Parts 15 and 17.	3 4
Division 1 Definitions	5
46 Definitions	6
(1) In this Part:	7
<i>occupier's notice</i> means an occupier's notice referred to in section 67.	8
<i>telephone warrant</i> means a warrant referred to in section 61.	9
(2) A reference in this Part to an offence includes a reference to an offence that there are reasonable grounds for believing has been, is being, or is to be, committed (as the case requires).	10 11 12
(3) For the purposes of this Part, a thing is connected with a particular offence if it is:	13 14
(a) a thing with respect to which the offence has been committed, or	15 16
(b) a thing that will provide evidence of the commission of the offence, or	17 18
(c) a thing that was used, or is intended to be used, in or in connection with the commission of the offence.	19 20
Division 2 Police powers relating to warrants	21
47 Power to apply for warrant for particular offences (cf Search Warrants Act 1985, s 5, Crimes Act 1900, ss 357EA, 578D)	22 23
(1) A police officer may apply to an authorised officer for a search warrant if the police officer believes on reasonable grounds that there is or, within 72 hours will be, in or on any premises:	24 25 26
(a) a thing connected with a particular indictable offence, or	27
(b) a thing connected with a particular firearms offence, or	28
(c) a thing connected with a particular prohibited weapons offence, or	29 30

- (d) a thing connected with a particular narcotics offence, or 1
 - (e) a thing connected with a particular child pornography offence,
or 2
3
 - (f) a thing stolen or otherwise unlawfully obtained. 4
- (2) Without limiting subsection (1), a police officer may apply to an
authorised officer for a search warrant if the police officer believes on
reasonable grounds that a child prostitution offence has recently been
committed, is being committed or, within 72 hours will be committed,
on or with respect to premises. 5
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- (3) In this section: 10
- child pornography offence*** means an offence under section 578B or
578C of the *Crimes Act 1900*. 11
12
- child prostitution offence*** means an offence under section 91D, 91E,
91F or 91G of the *Crimes Act 1900*. 13
14
- firearms offence*** means an offence under the *Firearms Act 1996*, the
Weapons Prohibition Act 1998 or a regulation made under either of
those Acts, being an offence committed in respect of a firearm or a
prohibited weapon within the meaning of those Acts. 15
16
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- narcotics offence*** means: 19
- (a) an offence under the *Poisons and Therapeutic Goods Act 1966*,
or regulations under that Act, being an offence committed in
respect of: 20
21
22
 - (i) a restricted substance prescribed for the purposes of
section 16 of that Act, or 23
24
 - (ii) a drug of addiction within the meaning of that Act, or 25
 - (b) an offence under the *Drug Misuse and Trafficking Act 1985* or
regulations under that Act. 26
27
- 48 Issue of warrant** (cf Search Warrants Act 1985, s 6, Crimes Act 1900, s 357EA) 28
- An authorised officer to whom an application for a search warrant is
made may, if satisfied that there are reasonable grounds for doing so,
issue a search warrant authorising any police officer: 29
30
31
- (a) to enter the premises, and 32
 - (b) to search the premises for things of a kind referred to in
section 47 (1). 33
34

49	Seizure of things pursuant to warrant (cf Search Warrants Act 1985, s 7)	1
	(1) A police officer executing a search warrant issued under this Division:	2
	(a) may seize and detain a thing mentioned in the warrant, and	3
	(b) may, in addition, seize and detain any other thing that the police officer finds in the course of executing the warrant and that the police officer believes on reasonable grounds is connected with any offence.	4 5 6 7
	(2) The power to seize and detain a thing includes:	8
	(a) a power to remove the thing from the premises where it is found, and	9 10
	(b) a power to guard the thing in or on those premises.	11
	Note. For the disposal of things seized pursuant to a search warrant, see Division 2 of Part 17.	12 13
50	Search of persons pursuant to warrant (cf Search Warrants Act 1985, s 8)	14
	A police officer executing a search warrant issued under this Division may search a person found in or on the premises whom the police officer reasonably suspects of having a thing mentioned in the warrant.	15 16 17
	Note.	18
	1 Under section 99 a police officer may arrest and take before an authorised officer to be dealt with according to law any person found in or on the premises whom the police officer suspects on reasonable grounds of having committed an offence.	19 20 21 22
	2 Division 4 of Part 4 contains provisions generally applicable to searches of persons.	23 24
51	Inquiries pursuant to warrant related to child prostitution offences	25
	Without limiting any other powers under this Division, a police officer executing a search warrant issued under this Division in relation to an offence under section 91D, 91E, 91F or 91G of the <i>Crimes Act 1900</i> may make in the premises the subject of the warrant inquiries relating to any such offence.	26 27 28 29 30
52	Obstruction or hindrance of person executing warrant (cf Search Warrants Act 1985, s 9)	31 32
	A person must not, without reasonable excuse, obstruct or hinder a person executing a warrant issued under this Division.	33 34
	Maximum penalty: 100 penalty units or 2 years imprisonment, or both.	35

Division 3	Notices to produce documents	1
53	Notices to produce documents	2
(1)	A police officer who believes on reasonable grounds that an authorised deposit-taking institution holds documents that may be connected with an offence committed by someone else may apply to an authorised officer for a notice to produce the documents.	3 4 5 6
(2)	An application under this section may be, but is not required to be, made instead of an application for a search warrant.	7 8
	Note. For provisions relating generally to applications for notices to produce documents and other matters, see section 59.	9 10
54	Issue of notice to produce documents	11
(1)	An authorised officer to whom an application for a notice to produce documents is made may issue a notice to produce documents if satisfied that there are reasonable grounds for suspecting that:	12 13 14
(a)	the authorised deposit-taking institution holds documents that may be connected with an offence, and	15 16
(b)	the institution is not a party to the offence.	17
(2)	The authorised officer may, in the notice, specify that the documents are to be produced to a police officer within a stated time and at a stated place and in a stated form (whether electronic or otherwise).	18 19 20
(3)	A police officer must give the notice to the authorised deposit-taking institution named in the notice as soon as reasonably practicable after it is issued.	21 22 23
55	Information in application for notice to produce documents	24
	Without limiting the application of section 54 to notices to produce documents, an authorised officer must not issue a notice to produce documents unless the application for the notice includes the name of the authorised deposit-taking institution the subject of the application.	25 26 27 28
56	Claims of privilege	29
(1)	If, under a notice to produce documents, an authorised deposit-taking institution claims that documents required to be produced contain communications between the institution and someone else that may not, in proceedings, be adduced under Division 1, 1A or 3 of Part 3.10	30 31 32 33

of the <i>Evidence Act 1995</i> , the police officer must, if the police officer proposes to proceed to enforce the notice, as soon as reasonably practicable, apply to a Magistrate for an order for access to the documents.	1 2 3 4
(2) A Magistrate may, on application made under this section in respect of a document, make one of the following orders:	5 6
(a) that the police officer be given access to the document,	7
(b) that the documents be given to the police officer and copied by the police officer and the original document be returned to the authorised deposit-taking institution,	8 9 10
(c) that the document is not required to be produced by the authorised deposit-taking institution.	11 12
(3) If an order is made under subsection (2) (b):	13
(a) a police officer is authorised, if the document is in electronic form, to produce a hard copy of the information contained in the document, and	14 15 16
(b) the order may include a condition that the document must, on the request of a police officer, be produced to a court hearing a proceeding for an offence for which the document is to be used as evidence.	17 18 19 20
57 Obligations and liability of authorised deposit-taking institution	21
(1) An authorised deposit-taking institution is not subject to any action, liability, claim or demand for complying with, or producing something in the honest belief that it was complying with a notice to produce documents or an order of a Magistrate under this Division.	22 23 24 25
(2) An authorised deposit-taking institution, or an officer of an authorised deposit-taking institution, must not, without reasonable excuse, fail or refuse to comply with a notice to produce documents.	26 27 28
Maximum penalty: 100 penalty units or 2 years imprisonment, or both.	29
58 Produced document taken to be seized	30
A document produced under this Division is taken to have been seized under this Act.	31 32

Division 4	Provisions relating generally to warrants and notices to produce documents	1 2
59	Application of Division	3
(1)	This Division applies to the following warrants:	4
(a)	search warrants issued to police officers under Division 2,	5
(b)	search warrants issued under a provision specified in Schedule 2,	6 7
(c)	crime scene warrants issued under Part 7,	8
(d)	warrants issued under Division 1 of Part 11,	9
(e)	search warrants issued under a provision of, or a provision made under, an Act, being a provision that provides that this Division applies to a search warrant issued under that provision.	10 11 12 13
(2)	This Division (other than sections 67 and 68 and sections 61 (7) and 73 (6) (d), to the extent they require an occupier's notice) applies to notices to produce documents issued under Division 3 in the same way as it applies to warrants.	14 15 16 17
(3)	This Division (other than sections 67 and 68 and sections 61 (7) and 73 (6) (d), to the extent they require an occupier's notice) applies to warrants issued under Part 6 and Division 2 of Part 11.	18 19 20
(4)	Sections 60 (2), (3) and (4), 61 (2)–(8), 63–66, 75 and 76 apply to detention warrants issued under Part 9.	21 22
60	Application for warrant in person (cf Search Warrants Act 1985, s 11)	23
(1)	An application for a warrant must be in writing in the form prescribed by the regulations and must be made by the applicant in person.	24 25
(2)	An authorised officer must not issue a warrant unless the information given by the applicant in or in connection with the application is verified before the authorised officer on oath or affirmation or by affidavit.	26 27 28 29
(3)	An authorised officer may administer an oath or affirmation or take an affidavit for the purposes of an application for a warrant.	30 31
(4)	This section does not apply to a telephone warrant.	32

61 Telephone warrant (cf Search Warrants Act 1985, s 12)	1
(1) A person may apply by telephone for a warrant.	2
Note. Telephone includes radio, facsimile and any other communication device.	3
(2) An authorised officer must not issue a warrant on an application made by telephone unless the authorised officer is satisfied that the warrant is required urgently and that it is not practicable for the application to be made in person.	4 5 6 7
(3) An application must be made by facsimile if the facilities to do so are readily available for that purpose.	8 9
(4) If it is not practicable for an application for a warrant to be made by telephone directly to an authorised officer, the application may be transmitted to the authorised officer by another person on behalf of the applicant.	10 11 12 13
(5) An authorised officer who issues a warrant on an application made by telephone must:	14 15
(a) complete and sign the warrant, and	16
(b) furnish the warrant to the person who made the application or inform that person of the terms of the warrant and of the date and time when it was signed, and	17 18 19
(c) in the case of a search warrant, prepare and furnish an occupier's notice to the person who made the application or inform the person of the terms of the occupier's notice.	20 21 22
(6) If a warrant is issued on an application made by telephone, the applicant:	23 24
(a) in a case where the applicant was not furnished with the warrant—must complete a form of warrant in the terms indicated by the authorised officer under subsection (5) and write on it the name of that authorised officer and the date and time when the warrant was signed, and	25 26 27 28 29
(b) in the case of a search warrant where the applicant was not furnished with an occupier's notice—must complete a form of occupier's notice in the terms indicated by the authorised officer under subsection (5).	30 31 32 33
(7) A form of warrant and a form of occupier's notice so completed is taken to be a warrant issued, and an occupier's notice prepared and furnished, in accordance with this Act.	34 35 36

- (8) A warrant or occupier's notice is to be furnished by an authorised officer by transmitting it by facsimile, if the facilities to do so are readily available, and the copy produced by that transmission is taken to be the original document. 1
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62 Information in application for warrant (cf Search Warrants Act 1985, s 12A) 5

- (1) An authorised officer must not issue a warrant unless the application for the warrant includes the following information: 6
7
- (a) details of the authority of the applicant to make the application for the warrant, 8
9
 - (b) the grounds on which the warrant is being sought, 10
 - (c) the address or other description of the premises the subject of the application, 11
12
 - (d) if the warrant is required to search for a particular thing—a full description of that thing and, if known, its location, 13
14
 - (e) if a previous application for the same warrant was refused—details of the refusal and any additional information required by section 64, 15
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17
 - (f) any other information required by the regulations. 18
- (2) An authorised officer, when determining whether there are reasonable grounds to issue a warrant, is to consider (but is not limited to considering) the following matters: 19
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21
- (a) the reliability of the information on which the application is based, including the nature of the source of the information, 22
23
 - (b) if the warrant is required to search for a thing in relation to an alleged offence—whether there is sufficient connection between the thing sought and the offence. 24
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- (3) The applicant must provide (either orally or in writing) such further information as the authorised officer requires concerning the grounds on which the warrant is being sought. 27
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- (4) Nothing in this section requires an applicant for a warrant to disclose the identity of a person from whom information was obtained if the applicant is satisfied that to do so might jeopardise the safety of any person. 30
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63	False or misleading information in applications (cf Search Warrants Act 1985, s 12B)	1
		2
	(1) A person must not, in or in connection with an application for a warrant, give information to an authorised officer that the person knows to be false or misleading in a material particular.	3
		4
		5
	Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.	6
		7
	(2) This section applies to an application by telephone as well as in person.	8
	(3) This section applies whether or not the information given is also verified on oath or affirmation or by affidavit.	9
		10
64	Further application for warrant after refusal (cf Search Warrants Act 1985, s 12C)	11
		12
	(1) If an application by a person for a warrant is refused by an authorised officer, that person (or any other person who is aware of the application) may not make a further application for the same warrant to that or any other authorised officer unless the further application provides additional information that justifies the making of the further application.	13
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	(2) However, a further application may be made to a Magistrate following a refusal to issue the warrant by an authorised officer who is not a Magistrate whether or not additional information is provided in the further application. Only one such further application may be made in any particular case.	19
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65	Record of proceedings before authorised officer (cf Search Warrants Act 1985, s 13)	24
		25
	(1) An authorised officer who issues a warrant must cause a record to be made of all relevant particulars of the grounds the authorised officer has relied on to justify the issue of the warrant.	26
		27
		28
	(2) The regulations may make provision for or with respect to:	29
	(a) the keeping of records in connection with the issue and execution of warrants, and	30
		31
	(b) the inspection of any such records, and	32
	(c) any other matter in connection with any such records.	33

(3) Any matter that might disclose the identity of a person must not be recorded pursuant to this section if the authorised officer is satisfied that to do so might jeopardise the safety of any person.	1 2 3
66 Form of warrant (cf Search Warrants Act 1985, s 14)	4
A warrant is to be in the form prescribed by the regulations.	5
67 Notice to occupier of premises entered pursuant to warrant (cf Search Warrants Act 1985, s 15)	6 7
(1) An authorised officer is to prepare and give an occupier’s notice to the person to whom the authorised officer issues a warrant.	8 9
(2) An occupier’s notice:	10
(a) is to be in the form prescribed by the regulations, and	11
(b) must specify the following:	12
(i) the name of the person who applied for the warrant,	13
(ii) the name of the authorised officer who issued the warrant,	14 15
(iii) the date and the time when the warrant was issued,	16
(iv) the address or other description of the premises the subject of the warrant, and	17 18
(c) must contain a summary of the nature of the warrant and the powers conferred by the warrant.	19 20
(3) A person executing a warrant must:	21
(a) on entry into or onto the premises or as soon as practicable after entry, serve the occupier’s notice on a person who appears to be an occupier of the premises and to be of or above the age of 18 years, or	22 23 24 25
(b) if no such person is then present in or on the premises, serve the occupier’s notice on the occupier of the premises, either personally or in such other manner as the authorised officer who issued the warrant may direct, as soon as practicable after executing the warrant.	26 27 28 29 30
(4) Service of an occupier’s notice pursuant to subsection (3) (b) may be postponed by the authorised officer who issued the warrant if that authorised officer is satisfied that there are reasonable grounds for the postponement.	31 32 33 34

(5) Service of an occupier's notice pursuant to subsection (3) (b) may be postponed on more than one occasion, but must not be postponed on any one occasion for a period exceeding 6 months.	1 2 3
68 Announcement before entry (cf Search Warrants Act 1985, s 15A)	4
(1) One of the persons executing a warrant must, before any of the persons executing the warrant enters the premises:	5 6
(a) announce that the person is authorised by the warrant to enter the premises, and	7 8
(b) give any person then in or on the premises an opportunity to allow entry into or onto the premises.	9 10
(2) A person executing a warrant is not required to comply with this section if the person believes on reasonable grounds that immediate entry is required to ensure the safety of any person or to ensure that the effective execution of the warrant is not frustrated.	11 12 13 14
69 Duty to show warrant (cf Search Warrants Act 1985, s 16)	15
A person executing a warrant must produce the warrant for inspection by an occupier of the premises if requested to do so by that occupier.	16 17
70 Use of force to enter premises (cf Search Warrants Act 1985, s 17)	18
(1) A person authorised to enter premises pursuant to a warrant may use such force as is reasonably necessary for the purpose of entering the premises.	19 20 21
(2) A person authorised to search premises pursuant to a warrant may, if it is reasonably necessary to do so, break open any receptacle in or on the premises for the purposes of that search.	22 23 24
71 Use of assistants to execute warrant (cf Search Warrants Act 1985, s 18)	25
A person may execute a warrant with the aid of such assistants as the person considers necessary.	26 27
72 Execution of warrant by day or night (cf Search Warrants Act 1985, s 19)	28
(1) A warrant may be executed by day, but must not be executed by night unless the authorised officer, by the warrant, authorises its execution by night.	29 30 31

(2)	An authorised officer is not to authorise the execution of a warrant by night unless satisfied that there are reasonable grounds for doing so. Those grounds include (but are not limited to) the following:	1
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		3
(a)	the execution of the warrant by day is unlikely to be successful because, for example, it is issued to search for a thing that is likely to be on the premises only at night or other relevant circumstances will only exist at night,	4
		5
		6
		7
(b)	there is likely to be less risk to the safety of any person if it is executed by night,	8
		9
(c)	an occupier is likely to be on the premises only at night to allow entry without the use of force.	10
		11
(3)	In this section:	12
	<i>by day</i> means during the period between 6 am and 9 pm on any day.	13
	<i>by night</i> means during the period between 9 pm on any day and 6 am on the following day.	14
		15
73	Expiry of warrant (cf Search Warrants Act 1985, s 20)	16
(1)	A warrant ceases to have effect:	17
(a)	except in the case of a telephone warrant—at the time specified in the warrant for its expiry, or	18
		19
(b)	in the case of a telephone warrant—on the expiration of the period of 24 hours after its issue, or	20
		21
(c)	if it is withdrawn by the authorised officer who issued the warrant, or	22
		23
(d)	when it is executed,	24
	whichever first occurs.	25
(2)	An authorised officer who issues a warrant (other than a telephone warrant) must specify in the warrant the time when the warrant is to expire.	26
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(3)	The time so specified is to be 72 hours after the issue of the warrant or, if the authorised officer is satisfied that the warrant cannot be executed within 72 hours, any time within a further period not exceeding 72 hours.	29
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(4)	A warrant that expires 72 hours after its issue may be extended by the authorised officer who issued the warrant if the authorised officer is satisfied that the warrant cannot be executed within 72 hours.	33
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| (5) The time for expiry of a warrant may be extended only once. | 1 |
| (6) Any such extension: | 2 |
| (a) must not extend the period for which the warrant has effect beyond 144 hours after its issue, and | 3
4 |
| (b) must be made on the application of the person to whom the warrant was issued or any other person who is authorised to execute the warrant, and | 5
6
7 |
| (c) must be made before the expiry of the warrant, and | 8 |
| (d) must be made by issuing a replacement warrant and occupier's notice. | 9
10 |
| (7) If no time of expiry is specified in a warrant, the warrant expires 72 hours after its issue. | 11
12 |
| 74 Report to authorised officer on execution of warrant (cf Search Warrants Act 1985, s 21) | 13
14 |
| (1) The person to whom a warrant is issued must furnish a report in writing to the authorised officer who issued the warrant: | 15
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| (a) stating whether or not the warrant was executed, and | 17 |
| (b) if the warrant was executed—setting out briefly the result of the execution of the warrant (including a brief description of anything seized), and | 18
19
20 |
| (c) if the warrant was not executed—setting out briefly the reasons why the warrant was not executed, and | 21
22 |
| (d) in the case of a search warrant—stating whether or not an occupier's notice has been served in connection with the execution of the warrant, and | 23
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25 |
| (e) in the case of a telephone warrant—containing a copy of the form of warrant and, in the case of a search warrant, the form of occupier's notice if those documents were not furnished to the person, and | 26
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29 |
| (f) containing such other particulars as may be prescribed by the regulations. | 30
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| (2) The report must be furnished within 10 days after the execution of the warrant or the expiry of the warrant, whichever first occurs. | 32
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75	Death, absence of authorised officer who issued warrant (cf Search Warrants Act 1985, s 22)	1 2
	If the authorised officer who issued a warrant has died, has ceased to be an authorised officer or is absent:	3 4
	(a) a report required to be furnished to that authorised officer under section 74, or	5 6
	(b) a power exercisable by that authorised officer under section 67 (3) (b) or (4) or 73 (4),	7 8
	must be furnished to, or may be exercised by, as the case may be, any other authorised officer.	9 10
76	Defects in warrants (cf Search Warrants Act 1985, s 23)	11
	A warrant is not invalidated by any defect, other than a defect that affects the substance of the warrant in a material particular.	12 13
Division 5	Miscellaneous	14
77	Abolition of common law search warrants (cf Search Warrants Act 1985, s 24)	15 16
	Any common law power conferred on a justice of the peace or any other person to issue a warrant authorising a person to enter premises for the purpose of searching for stolen goods or any other thing continues to be abolished.	17 18 19 20
78	Ministerial arrangements for things seized in connection with extra-territorial offences (cf Search Warrants Act 1985, s 24A)	21 22
	(1) In this section:	23
	<i>appropriate authority</i> means:	24
	(a) in relation to another State or a Territory (other than the Australian Capital Territory)—an authority exercising, in relation to the Police Force of that State or Territory, functions corresponding to those of the Commissioner in relation to NSW Police, or	25 26 27 28 29
	(b) in relation to the Australian Capital Territory—the Commissioner of the Australian Federal Police.	30 31

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- (2) The Minister may enter into arrangements with a Minister of another State or a Territory under which:
- (a) things seized under this Act that may be relevant to the investigation of an offence against the law of that other State or Territory:
- (i) are to be transmitted to the appropriate authority in that State or Territory for the purposes of the investigation of, or proceedings in respect of, that offence, and
- (ii) when no longer required for the purposes of any such investigation or proceedings, are (unless disposed of by order or direction of a court or Magistrate) to be returned to the Commissioner of Police, and
- (b) things seized under the law of that other State or Territory that may be relevant to the investigation of an offence against the law of this State:
- (i) are to be transmitted to the Commissioner of Police, and
- (ii) when no longer required for the purposes of the investigation of an offence, or proceedings in respect of an offence, are (unless disposed of by order or direction of a court or Magistrate) to be returned to the appropriate authority in the State or Territory in which they were seized.
- (3) This section has effect despite Division 2 of Part 17.
- 79 References in other Acts to “authorised justice” or “authorised officer”** (cf Search Warrants Act 1985, s 24B)
- A reference in any other Act to an authorised justice or authorised officer in relation to a warrant to which Division 4 applies is to be read as a reference to an authorised officer within the meaning of this Act.
- 80 Application of warrant provisions** (cf Search Warrants Act 1985, s 26)
- (1) The regulations may apply, to and in respect of search warrants issued under the *National Electricity (NSW) Law*, such of the provisions of this Part and Parts 15 and 17 as are specified in the regulations and are not inconsistent with that Law.
- (2) The regulations may apply, to and in respect of search warrants issued under the *Gas Pipelines Access (New South Wales) Law*, such of the provisions of this Part and Parts 15 and 17 as are specified in the regulations and are not inconsistent with that Law.

Part 6 Search, entry and seizure powers relating to domestic violence offences

Note. Safeguards relating to the exercise of powers under this Part are set out in Parts 15 and 17.

81 Definitions

(1) In this Part:

domestic violence offence means a personal violence offence committed against:

- (a) a person who is or has been married to the person who commits the offence, or
- (b) a person who has or has had a de facto relationship, within the meaning of the *Property (Relationships) Act 1984*, with the person who commits the offence, or
- (c) a person who has or has had an intimate personal relationship with the person who commits the offence, whether or not the intimate relationship involves or has involved a relationship of a sexual nature, or
- (d) a person who is living with or has lived in the same household or other residential facility as the person who commits the offence, or
- (e) a person who has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the person who commits the offence, or
- (f) a person who is or has been a relative (within the meaning of subsection (2)) of the person who commits the offence.

occupier of a dwelling means a person immediately entitled to possession of the dwelling.

personal violence offence means:

- (a) an offence under, or mentioned in, section 19, 24, 27, 28, 29, 30, 33, 33A, 35, 39, 41, 44, 46, 47, 48, 49, 58, 59, 61, 61B, 61C, 61D, 61E, 61I, 61J, 61K, 61L, 61M, 61N, 61O, 195, 196, 198, 199, 200 or 562I of the *Crimes Act 1900*, or
- (b) an offence of attempting to commit an offence referred to in paragraph (a).

-
- (2) For the purposes of the definition of *domestic violence offence*, a person is a *relative* of a person (the *other person*):
- (a) if the person is:
- (i) a father, mother, grandfather, grandmother, step-father, step-mother, father-in-law or mother-in-law, or
 - (ii) a son, daughter, grandson, grand-daughter, step-son, step-daughter, son-in-law or daughter-in-law, or
 - (iii) a brother, sister, half-brother, half-sister, brother-in-law or sister-in-law, or
 - (iv) an uncle, aunt, uncle-in-law or aunt-in-law, or
 - (v) a nephew or niece, or
 - (vi) a cousin,
- of the other person, or
- (b) if the person is in a de facto relationship, within the meaning of the *Property (Relationships) Act 1984*, with somebody else (the *person's partner*)—if the other person is:
- (i) a father, mother, grandfather, grandmother, step-father or step-mother, or
 - (ii) a son, daughter, grandson, grand-daughter, step-son or step-daughter, or
 - (iii) a brother, sister, half-brother or half-sister, or
 - (iv) an uncle or aunt, or
 - (v) a nephew or niece, or
 - (vi) a cousin,
- of the person's partner.
- 82 Entry by invitation** (cf Crimes Act 1900, s 357F)
- (1) A police officer who believes on reasonable grounds that a domestic violence offence is being, or may have been recently, committed, or is imminent, or is likely to be committed, in any dwelling may, if invited to do so by a person who apparently resides in the dwelling (whether or not the person is an adult) enter the dwelling and remain in the dwelling for any of the following purposes:
- (a) to investigate whether a domestic violence offence has been committed,
 - (b) to take action to prevent the commission or further commission of a domestic violence offence.

- (2) However, a police officer may not enter or remain in a dwelling merely because of any such invitation if:
- (a) authority to so enter or remain is expressly refused by an occupier of the dwelling, and
 - (b) the police officer is not otherwise authorised (whether under this or any other Act or law or subsection (3)) to so enter or remain.
- (3) A police officer may exercise a power to enter and remain in a dwelling if the invitation to enter and remain was given by a person whom the police officer believes to be the person on whom a domestic violence offence is being, or may have been recently, committed, or is imminent, or is likely to be committed in the dwelling even though an occupier of the dwelling expressly refuses authority to the police officer to do so.

83 Entry by warrant where entry denied (cf Crimes Act 1900, s 357G) 15

- (1) A police officer may apply to an authorised officer for a warrant if the police officer:
- (a) has been denied entry to a specified dwelling, and
 - (b) the police officer suspects that:
 - (i) a domestic violence offence is being, or may have been recently, committed, or is imminent, or is likely to be committed in the dwelling, and
 - (ii) it is necessary for a police officer to enter the dwelling immediately in order to investigate whether a domestic violence offence has been committed or to take action to prevent the commission or further commission of a domestic violence offence.
- (2) An authorised officer may, if satisfied that there are reasonable grounds for the police officer's suspicion, issue a warrant authorising any police officer:
- (a) to enter the dwelling, and
 - (b) to investigate whether a domestic violence offence has taken place or to take action to prevent the commission or further commission of a domestic violence offence, or both.

Note. For provisions relating to applications for warrants, and other related matters, see section 59. 35
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84	Obstruction or hindrance of person executing warrant (cf Search Warrants Act 1985, s 9)	1
	A person must not, without reasonable excuse, obstruct or hinder a person executing a warrant issued under this Part.	2
	Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.	3
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85	Powers that may be exercised on entry into premises (cf Crimes Act 1900, s 357H)	7
	(1) A police officer who enters a dwelling pursuant to a power conferred by or under this Part is to take only the action in the dwelling that is reasonably necessary:	8
	(a) to investigate whether a domestic violence offence has been committed, and	9
	(b) to render aid to any person who appears to be injured, and	10
	(c) to exercise any lawful power to arrest a person, and	11
	(d) to prevent the commission or further commission of a domestic violence offence.	12
	(2) A police officer who so enters a dwelling must inquire as to the presence of any firearms in the dwelling and, if informed that there is or are a firearm or firearms, must take all such action as is reasonably practicable to search for and to seize and detain the firearm or firearms.	13
	(3) A police officer who so enters a dwelling is to remain in the dwelling only as long as is necessary to take the actions required or permitted by this Part.	14
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86	Police may enter and search for firearms (cf Crimes Act 1900, s 357I)	25
	(1) A police officer who, on an inquiry under section 85, is informed that there is no firearm in the dwelling but who believes on reasonable grounds that there is or are a firearm or firearms in the dwelling, must apply to an authorised officer for the issue of a search warrant.	26
	(2) A police officer who believes on reasonable grounds that:	27
	(a) a domestic violence offence is being, or may have been recently, committed, or is imminent, or is likely to be committed, otherwise than in a dwelling, and	28
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(b)	any of the persons concerned may have a firearm in a dwelling,	1
	must apply to an authorised officer for the issue of a search warrant.	2
(3)	In addition to any other powers of an authorised officer under Part 5,	3
	an authorised officer who issues a search warrant that a police officer	4
	is required to apply for under this section may, in the warrant,	5
	authorise any police officer:	6
(a)	to enter and search the dwelling concerned for firearms, and	7
(b)	to seize and detain any firearms that may be found in the	8
	dwelling.	9
(4)	This section does not apply to a police officer if the circumstances are	10
	such that the police officer has power to search and seize a dangerous	11
	article under another provision of this Act or another law.	12
87	Search and seizure powers (cf Crimes Act 1900, s 357)	13
	A police officer who enters a dwelling under a power conferred by or	14
	under this Act and who believes, on reasonable grounds, that:	15
(a)	a dangerous article is in the dwelling, and	16
(b)	that the dangerous article is being, or was, or may have been or	17
	may be used to commit a domestic violence offence,	18
	may search the dwelling for the dangerous article and seize and detain	19
	the dangerous article.	20

Part 7 Crime scenes

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Note. Safeguards relating to the exercise of powers under this Part are set out in Part 15.

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88 Crime scene powers may be exercised if police officer lawfully on premises

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A police officer who is lawfully on premises (whether by authority of a crime scene warrant or for any other lawful reason) may:

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(a) establish a crime scene, and

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(b) exercise crime scene powers in accordance with this Part, and

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(c) stay on the premises for those purposes.

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89 Application of Part to premises

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(1) This Part applies to premises of any kind, whether or not a public place.

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(2) Despite any other provision of this Part, a police officer may exercise crime scene powers at a crime scene in a public place without obtaining a crime scene warrant and the provisions of this Part apply accordingly.

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90 When crime scene may be established

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A crime scene may be established on premises by a police officer if the police officer suspects on reasonable grounds that:

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(a) an offence committed in connection with a traffic accident that has resulted in the death of or serious injury to a person is being, or was, or may have been, committed on the premises and that it is reasonably necessary to establish a crime scene in or on the premises to preserve, or search for and gather, evidence of the commission of that offence, or

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(b) a serious indictable offence is being, or was, or may have been, committed on the premises and it is reasonably necessary to establish a crime scene in or on the premises to preserve, or search for and gather, evidence of the commission of that offence, or

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(c)	there may be in or on the premises evidence of the commission of a serious indictable offence that may have been committed elsewhere and it is reasonably necessary to establish a crime scene in or on the premises to preserve, or search for and gather, evidence of the commission of that offence.	1 2 3 4 5
91	Establishment of crime scene	6
(1)	A police officer may establish a crime scene on premises in any way that is reasonably appropriate in the circumstances.	7 8
(2)	A police officer who establishes a crime scene must, if reasonably appropriate in the circumstances, give the public notice that the premises are a crime scene.	9 10 11
92	Exercise of powers at crime scene	12
(1)	A police officer who establishes a crime scene may exercise any of the crime scene powers set out in section 95 (1) (a)–(f) if the police officer suspects on reasonable grounds that it is necessary to do so to preserve evidence of the commission of an offence in relation to which the crime scene was established.	13 14 15 16 17
(2)	A police officer who establishes a crime scene may exercise any of the other powers set out in section 95 (1), but only if:	18 19
(a)	the police officer or another police officer applies for a crime scene warrant in respect of the crime scene, or	20 21
(b)	the police officer suspects on reasonable grounds that it is necessary to immediately exercise the power to preserve evidence of the commission of an offence.	22 23 24
(3)	A police officer may exercise crime scene powers for a period of not more than 3 hours, commencing when the crime scene is established (as determined in accordance with the regulations), unless the police officer obtains a crime scene warrant.	25 26 27 28
(4)	A crime scene may not be established in the same premises more than once in a 24 hour period (whether by the same or another police officer) unless a crime scene warrant is obtained in respect of the second and any subsequent occasion.	29 30 31 32

93	Notice to senior police officer where warrant not required	1
	If a crime scene is established for a period of 3 hours or less, the police officer who establishes the crime scene must notify a senior police officer of that fact.	2 3 4
94	Crime scene warrants	5
	(1) A police officer may apply to an authorised officer for a crime scene warrant if the police officer suspects on reasonable grounds that it is necessary to exercise crime scene powers at a crime scene for the purpose of preserving, or searching for and gathering, evidence of the commission of:	6 7 8 9 10
	(a) a serious indictable offence, or	11
	(b) an offence that is being, or was, or may have been, committed in connection with a traffic accident that has resulted in the death of or serious injury to a person.	12 13 14
	(2) The authorised officer may, if satisfied that there are reasonable grounds for doing so, issue a crime scene warrant authorising a police officer to enter premises and exercise all reasonably necessary crime scene powers at, or in relation to, a specified crime scene.	15 16 17 18
	(3) A police officer who obtains a crime scene warrant may, in accordance with the warrant and this Part, exercise all reasonably necessary crime scene powers.	19 20 21
	Note. For provisions relating generally to applications for crime scene warrants and other matters, see section 59.	22 23
95	Crime scene powers	24
	(1) A police officer may, in accordance with this Part and any relevant crime scene warrant, exercise the following functions at, or in relation to, a crime scene established under this Part:	25 26 27
	(a) direct a person to leave the crime scene or remove a vehicle, vessel or aircraft from the crime scene,	28 29
	(b) remove from the crime scene a person who fails to comply with a direction to leave the crime scene or a vehicle, vessel or aircraft a person fails to remove from the crime scene,	30 31 32
	(c) direct a person not to enter the crime scene,	33
	(d) prevent a person from entering the crime scene,	34

- (e) prevent a person from removing evidence from or otherwise interfering with the crime scene or anything in it and, for that purpose, detain and search the person, 1
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 - (f) remove or cause to be removed an obstruction from the crime scene, 4
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 - (g) perform any necessary investigation, including, for example, search the crime scene and inspect anything in it to obtain evidence of the commission of an offence, 6
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 - (h) for the purpose of performing any necessary investigation, conduct any examination or process, 9
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 - (i) open anything at the crime scene that is locked, 11
 - (j) take electricity, gas or any other utility, for use at the crime scene, 12
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 - (k) direct the occupier of the premises or a person apparently involved in the management or control of the premises to maintain a continuous supply of electricity at the premises, 14
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 - (l) photograph or otherwise record the crime scene and anything in it, 17
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 - (m) seize and detain all or part of a thing that might provide evidence of the commission of an offence, 19
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 - (n) dig up anything at the crime scene, 21
 - (o) remove wall or ceiling linings or floors of a building, or panels of a vehicle, 22
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 - (p) any other function reasonably necessary or incidental to a function conferred by this subsection. 24
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 - (2) The power conferred by this section to seize and detain a thing includes: 26
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 - (a) a power to remove the thing from the crime scene when it is found, and 28
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 - (b) a power to guard the thing in or on the crime scene. 30
 - (3) Nothing in this Part prevents a police officer who is lawfully on premises from exercising a crime scene power or doing any other thing, if the occupier of the premises consents. 31
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- Note.** Under section 99 a police officer may arrest and take before an authorised officer to be dealt with according to law any person found in or on the premises whom the police officer suspects on reasonable grounds of having committed an offence. 34
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96	Obstruction or hindrance of person executing crime scene warrant	1
(1)	A person must not, without reasonable excuse, obstruct or hinder a person executing a crime scene warrant.	2
	Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.	3
(2)	A person must not, without reasonable excuse, fail or refuse to comply with a request made or direction given by a police officer pursuant to the exercise of crime scene powers at a crime scene.	4
	Maximum penalty: 10 penalty units.	5
97	Search warrants not affected	10
	Nothing in this Part prevents a police officer from applying for a search warrant under Part 5, or exercising any other function under this Act at, or in relation to, a crime scene or affects the exercise of any such function.	11
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98	Part does not confer additional entry powers	15
	Nothing in this Part (other than the provisions relating to crime scene warrants) confers on a police officer any additional power to enter premises or limits any power that a police officer has to enter premises.	16
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Part 8 Powers relating to arrest

Note.	2
1 A police officer also has the power, under section 50 of the <i>Bail Act 1978</i> , to arrest a person who breaches bail undertakings or agreements, or who the police officer believes on reasonable grounds is about to do so.	3 4 5
2 Safeguards relating to arrests by police officers, including the requirement to state the reason for an arrest, are set out in Part 15.	6 7
99 Power of police officers to arrest without warrant (cf Crimes Act 1900, s 352, Cth Act, s 3W)	8 9
(1) A police officer may, without a warrant, arrest a person if:	10
(a) the person is in the act of committing an offence under any Act or statutory instrument, or	11 12
(b) the person has just committed any such offence, or	13
(c) the person has committed a serious indictable offence for which the person has not been tried.	14 15
(2) A police officer may, without a warrant, arrest a person if the police officer suspects on reasonable grounds that the person has committed an offence under any Act or statutory instrument.	16 17 18
(3) A police officer must not arrest a person for the purpose of taking proceedings for an offence against the person unless the police officer suspects on reasonable grounds that it is necessary to arrest the person to achieve one or more of the following purposes:	19 20 21 22
(a) to ensure the appearance of the person before a court in respect of the offence,	23 24
(b) to prevent a repetition or continuation of the offence or the commission of another offence,	25 26
(c) to prevent the concealment, loss or destruction of evidence relating to the offence,	27 28
(d) to prevent harassment of, or interference with, a person who may be required to give evidence in proceedings in respect of the offence,	29 30 31
(e) to prevent the fabrication of evidence in respect of the offence,	32
(f) to preserve the safety or welfare of the person.	33

(4)	A police officer who arrests a person under this section must, as soon as is reasonably practicable, take the person, and any property found on the person, before an authorised officer to be dealt with according to law.	1 2 3 4
100	Power of other persons to arrest without warrant (cf Crimes Act 1900, s 352)	5 6
(1)	A person (other than a police officer) may, without a warrant, arrest a person if:	7 8
(a)	the person is in the act of committing an offence under any Act or statutory instrument, or	9 10
(b)	the person has just committed any such offence, or	11
(c)	the person has committed a serious indictable offence for which the person has not been tried.	12 13
(2)	A person who arrests another person under this section must, as soon as is reasonably practicable, take the person, and any property found on the person, before an authorised officer to be dealt with according to law.	14 15 16 17
101	Power to arrest with warrant (cf common law)	18
(1)	A police officer acting in accordance with a warrant issued under any Act or law may arrest or deal with the person named in the warrant in accordance with the warrant.	19 20 21
(2)	The police officer may take action whether or not the warrant is in his or her possession.	22 23
102	Power to arrest persons who are unlawfully at large (cf Crimes Act 1900, s 352AA)	24 25
(1)	A police officer may, with or without a warrant, arrest a person if the police officer suspects on reasonable grounds that the person is a person who is unlawfully at large.	26 27 28
(2)	A police officer who arrests a person under this section must, as soon as is reasonably practicable, take the person, and any property found on the person, before an authorised officer to be dealt with according to law.	29 30 31 32
(3)	The authorised officer may, by warrant, commit the person to a correctional centre, to be kept in custody under the same authority, and subject to the same conditions and with the benefit of the same	33 34 35

privileges and entitlements, as would have applied to the person if the person had not been unlawfully at large.	1 2
(4) In this section, a reference to a person unlawfully at large is a reference to a person who is at large (otherwise than because of escaping from lawful custody) at a time when the person is required by law to be in custody in a correctional centre.	3 4 5 6
Note. Inmates of correctional centres who are unlawfully at large may also be arrested under section 39 of the <i>Crimes (Administration of Sentences) Act 1999</i> .	7 8
103 Warrant for arrest of person unlawfully at large (cf Crimes Act 1900, s 352AA)	9 10
(1) A police officer may apply to an authorised officer for a warrant for the arrest of a person if the police officer suspects on reasonable grounds that the person is a person who is unlawfully at large.	11 12 13
(2) The authorised officer may issue the warrant if satisfied that there are reasonable grounds for doing so.	14 15
(3) The regulations may make provision for or with respect to the form of, and other requirements relating to, a warrant issued under this section.	16 17
104 Power to arrest for interstate offences (cf Crimes Act 1900, s 352A)	18
(1) This section applies to an offence (an <i>interstate offence</i>):	19
(a) that is an offence against the law of a State (other than New South Wales) or a Territory, and	20 21
(b) that consists of an act or omission that, if it occurred in New South Wales, would constitute an indictable offence or an offence punishable by imprisonment for 2 years or more.	22 23 24
(2) A police officer may, at any hour of the day or night and without a warrant, arrest a person if the police officer suspects on reasonable grounds that the person has committed an interstate offence.	25 26 27
(3) A court:	28
(a) may discharge the person, or	29
(b) may:	30
(i) commit the person to custody, or	31
(ii) grant bail,	32
pending the execution under a law of the Commonwealth of a warrant for the person's arrest or the person's earlier release from bail, or discharge from custody, under this section.	33 34 35

(4) Except as provided by this section, a person arrested under this section for an interstate offence has the same rights, and is to be dealt with in the same way, as a person arrested for a similar offence committed in New South Wales. In particular:	1
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(a) Parts 4, 9, 10 and 15 apply in respect of the person, and	5
(b) the <i>Bail Act 1978</i> , and the <i>Justices Act 1902</i> , with all necessary modifications, apply in relation to the granting of bail to the person and in relation to court proceedings under this section.	6
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(5) If a person has been committed to custody under subsection (3) and a warrant for the person's arrest is subsequently presented for execution, the person must be delivered in accordance with the terms of the warrant to the custody of the person executing it.	9
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(6) If a person arrested under this section has been granted bail, and subsequently, but before the person has complied with his or her bail undertaking, a warrant for the person's arrest is executed under a law of the Commonwealth, the person is taken at the time the warrant is executed to be released from that bail and to have complied with any condition or undertaking in relation to that bail at that time outstanding, not being a condition or undertaking with which the person has by that time failed, without lawful excuse, to comply.	13
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(7) If a person arrested under this section has been granted bail or is in custody, the person may be released from bail or discharged from custody if a warrant for the person's arrest is not executed within a reasonable time (not exceeding 7 days) after the arrest.	21
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(8) In this section:	25
<i>court</i> means:	26
(a) the Court of Criminal Appeal, the Supreme Court, the Land and Environment Court, the Industrial Relations Commission, the District Court or a Local Court, or	27
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(b) any other court that, or person who, exercises criminal jurisdiction.	30
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105 Arrest may be discontinued	32
(1) A police officer may discontinue an arrest at any time.	33

(2)	Without limiting subsection (1), a police officer may discontinue an arrest in any of the following circumstances:	1 2
(a)	if the arrested person is no longer a suspect or the reason for the arrest no longer exists for any other reason,	3 4
(b)	if it is more appropriate to deal with the matter in some other manner, including, for example, by issuing a warning or caution or a penalty notice or court attendance notice or, in the case of a child, dealing with the matter under the <i>Young Offenders Act 1997</i> .	5 6 7 8 9
106	Person helping in covert operations not under arrest	10
(1)	This section applies to covert investigations conducted by a police officer into whether a person other than a person who is in custody following an arrest has been involved in the commission of an offence or suspected offence.	11 12 13 14
(2)	For the purposes of this Part, if the person in custody following an arrest agrees voluntarily to take part in the covert investigation, the person ceases to be under arrest for the offence.	15 16 17
(3)	However, subsection (2) does not prevent the person from being rearrested for the offence.	18 19
107	Part does not affect alternatives to arrest	20
(1)	Nothing in this Part affects the power of a police officer to commence proceedings for an offence against a person otherwise than by arresting the person.	21 22 23
(2)	Nothing in this Part affects the power of a police officer to issue a warning or a caution or a penalty notice to a person.	24 25
108	Part does not affect Young Offenders Act 1997	26
	Nothing in this Part requires a police officer to arrest a person under the age of 18 years if it is more appropriate to deal with the matter under the <i>Young Offenders Act 1997</i> .	27 28 29

Part 9	Investigations and questioning	1
Division 1	Preliminary	2
109	Objects of Part (cf Crimes Act 1900, s 354)	3
	The objects of this Part are:	4
	(a) to provide for the period of time that a person who is under arrest may be detained by a police officer to enable the investigation of the person's involvement in the commission of an offence, and	5 6 7 8
	(b) to authorise the detention of a person who is under arrest for such a period despite any requirement imposed by law to bring the person before a Magistrate or other authorised officer or court without delay or within a specified period, and	9 10 11 12
	(c) to provide for the rights of a person so detained.	13
110	Definitions (cf Crimes Act 1900, s 355)	14
	(1) In this Part:	15
	<i>detention warrant</i> means a warrant issued under section 118.	16
	<i>investigation period</i> means the period provided for by section 115.	17
	<i>permanent Australian resident</i> means a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law.	18 19 20
	(2) A reference in this Part to a person who is under arrest or a person who is arrested includes a reference to a person who is in the company of a police officer for the purpose of participating in an investigative procedure, if:	21 22 23 24
	(a) the police officer believes that there is sufficient evidence to establish that the person has committed an offence that is or is to be the subject of the investigation, or	25 26 27
	(b) the police officer would arrest the person if the person attempted to leave, or	28 29
	(c) the police officer has given the person reasonable grounds for believing that the person would not be allowed to leave if the person wished to do so.	30 31 32

(3)	A person is not taken to be under arrest because of subsection (2) merely because the police officer is exercising a power under a law to detain and search the person or to require the person to provide information or to answer questions.	1 2 3 4
(4)	For the purposes of this Part, a person ceases to be under arrest for an offence if the person is remanded in respect of the offence.	5 6
111	Persons to whom Part applies (cf Crimes Act 1900, s 356)	7
(1)	This Part applies to a person, including a person under the age of 18 years, who is under arrest by a police officer for an offence. It is immaterial whether the offence concerned was committed before or after the commencement of this Part or within or outside the State.	8 9 10 11
(2)	This Part does not apply to a person who is detained under Part 16.	12
112	Modification of application of Part to certain persons (cf Crimes Act 1900, s 356A)	13 14
(1)	The regulations may make provision for or with respect to the modification of the application of this Part to:	15 16
(a)	persons under the age of 18 years, or	17
(b)	Aboriginal persons or Torres Strait Islanders, or	18
(c)	persons of non-English speaking background, or	19
(d)	persons who have a disability (whether physical, intellectual or otherwise).	20 21
(2)	Without limiting subsection (1), the regulations may provide for an investigation period for a person or class of persons referred to in that subsection that is shorter than the period provided for by section 115.	22 23 24
113	Effect of Part on other powers and duties (cf Crimes Act 1900, s 356B)	25
(1)	Existing powers relating to arrest and other matters This Part does not:	26 27
(a)	confer any power to arrest a person, or to detain a person who has not been lawfully arrested, or	28 29
(b)	prevent a police officer from asking or causing a person to do a particular thing that the police officer is authorised by law to ask or cause the person to do (for example, the power to require	30 31 32

a person to submit to a breath analysis under Division 3 of Part 2 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> , or	1
(c) independently confer power to carry out an investigative procedure.	2 3 4 5
(2) Certain evidentiary matters and rights not affected	6
Nothing in this Part affects:	7
(a) the operation of:	8
(i) the following provisions of the <i>Evidence Act 1995</i> :	9
section 84 (Exclusion of admissions influenced by violence and certain other conduct)	10
section 85 (Criminal proceedings: reliability of admissions by defendants)	11
section 90 (Discretion to exclude admissions)	12
section 138 (Exclusion of improperly or illegally obtained evidence)	13
section 139 (Cautioning of persons), or	14
(ii) any other provision of that Act, or	15
(b) any law that permits or requires a person to be present at the questioning of another person who is under arrest (for example, the presence of a parent at the questioning by a police officer of the parent's child), or	16 17 18 19 20 21 22
(c) the right of a person to refuse to participate in any questioning of the person or any other investigative procedure unless the person is required by law to do so, or	23 24 25
(d) the right of a person to leave police custody if the person is not under arrest, or	26 27
(e) the rights of a person under the <i>Bail Act 1978</i> .	28
Division 2 Investigation and questioning powers	29
114 Detention after arrest for purposes of investigation (cf Crimes Act 1900, s 356C)	30 31
(1) A police officer may in accordance with this section detain a person, who is under arrest, for the investigation period provided for by section 115.	32 33 34

- (2) A police officer may so detain a person for the purpose of investigating whether the person committed the offence for which the person is arrested. 1
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- (3) If, while a person is so detained, the police officer forms a reasonable suspicion as to the person's involvement in the commission of any other offence, the police officer may also investigate the person's involvement in that other offence during the investigation period for the arrest. It is immaterial whether that other offence was committed before or after the commencement of this Part or within or outside the State. 4
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- (4) The person must be: 11
- (a) released (whether unconditionally or on bail) within the investigation period, or 12
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- (b) brought before an authorised officer or court within that period, or, if it is not practicable to do so within that period, as soon as practicable after the end of that period. 14
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- (5) A requirement in another Part of this Act, the *Bail Act 1978* or any other relevant law that a person who is under arrest be taken before a Magistrate or other authorised officer or court, without delay, or within a specified period, is affected by this Part only to the extent that the extension of the period within which the person is to be brought before such a Magistrate or officer or court is authorised by this Part. 17
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- (6) If a person is arrested more than once within any period of 48 hours, the investigation period for each arrest, other than the first, is reduced by so much of any earlier investigation period or periods as occurred within that 48 hour period. 23
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- (7) The investigation period for an arrest (the *earlier arrest*) is not to reduce the investigation period for a later arrest if the later arrest relates to an offence that the person is suspected of having committed after the person was released, or taken before a Magistrate or other authorised officer or court, in respect of the earlier arrest. 27
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- 115 Investigation period** (cf Crimes Act 1900, s 356D) 32
- (1) The investigation period is a period that begins when the person is arrested and ends at a time that is reasonable having regard to all the circumstances, but does not exceed the maximum investigation period. 33
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(2)	The maximum investigation period is 4 hours or such longer period as the maximum investigation period may be extended to by a detention warrant.	1 2 3
116	Determining reasonable time (cf Crimes Act 1900, s 356E)	4
(1)	In determining what is a reasonable time for the purposes of section 115 (1), all the relevant circumstances of the particular case must be taken into account.	5 6 7
(2)	Without limiting the relevant circumstances that must be taken into account, the following circumstances (if relevant) are to be taken into account:	8 9 10
(a)	the person's age, physical capacity and condition and mental capacity and condition,	11 12
(b)	whether the presence of the person is necessary for the investigation,	13 14
(c)	the number, seriousness and complexity of the offences under investigation,	15 16
(d)	whether the person has indicated a willingness to make a statement or to answer any questions,	17 18
(e)	the time taken for police officers connected with the investigation (other than police officers whose particular knowledge of the investigation, or whose particular skills, are necessary to the investigation) to attend at the place where the person is being detained,	19 20 21 22 23
(f)	whether a police officer reasonably requires time to prepare for any questioning of the person,	24 25
(g)	the time required for facilities for conducting investigative procedures in which the person is to participate (other than facilities for complying with section 108 of the <i>Criminal Procedure Act 1986</i>) to become available,	26 27 28 29
(h)	the number and availability of other persons who need to be questioned or from whom statements need to be obtained,	30 31
(i)	the need to visit the place where any offence concerned is believed to have been committed or any other place reasonably connected with the investigation of any such offence,	32 33 34
(j)	the time during which the person is in the company of a police officer before and after the person is arrested,	35 36

(k)	the time taken to complete any searches or other investigative procedures that are reasonably necessary to the investigation (including any search of the person or any other investigative procedure in which the person is to participate),	1 2 3 4
(l)	the time required to carry out any other activity that is reasonably necessary for the proper conduct of the investigation.	5 6 7
(3)	In any criminal proceedings in which the reasonableness of any period of time that a person was detained under this Part is at issue, the burden lies on the prosecution to prove on the balance of probabilities that the period of time was reasonable.	8 9 10 11
117	Certain times to be disregarded in calculating investigation period (cf Crimes Act 1900, s 356F)	12 13
(1)	The following times (to the extent that those times are times during which any investigative procedure in which a person who is detained under this Part is to participate is reasonably suspended or deferred) are not to be taken into account in determining how much of an investigation period has elapsed:	14 15 16 17 18
(a)	any time that is reasonably required to convey the person from the place where the person is arrested to the nearest premises where facilities are available for conducting investigative procedures in which the person is to participate,	19 20 21 22
(b)	any time that is reasonably spent waiting for the arrival at the place where the person is being detained of police officers, or any other persons prescribed by the regulations, whose particular knowledge of the investigation, or whose particular skills, are necessary to the investigation,	23 24 25 26 27
(c)	any time that is reasonably spent waiting for facilities for complying with section 108 of the <i>Criminal Procedure Act 1986</i> to become available,	28 29 30
(d)	any time that is required to allow the person (or someone else on the person's behalf) to communicate with a friend, relative, guardian, independent person, legal practitioner or consular official,	31 32 33 34
(e)	any time that is required to allow such a friend, relative, guardian, independent person, legal practitioner or consular official to arrive at the place where the person is being detained,	35 36 37

(f)	any time that is required to allow the person to consult at the place where the person is being detained with such a friend, relative, guardian, independent person, legal practitioner or consular official,	1 2 3 4
(g)	any time that is required to arrange for and to allow the person to receive medical attention,	5 6
(h)	any time that is required to arrange for the services of an interpreter for the person and to allow the interpreter to arrive at the place where the person is being detained or become available by telephone for the person,	7 8 9 10
(i)	any time that is reasonably required to allow for an identification parade to be arranged and conducted,	11 12
(j)	any time that is required to allow the person to rest or receive refreshments or to give the person access to toilet and other facilities as referred to in section 130,	13 14 15
(k)	any time that is required to allow the person to recover from the effects of intoxication due to alcohol or another drug or a combination of drugs,	16 17 18
(l)	any time that is reasonably required to prepare, make and dispose of any application for a detention warrant or any application for a search warrant that relates to the investigation,	19 20 21
(m)	any time that is reasonably required to carry out charging procedures in respect of the person.	22 23
(2)	In any criminal proceedings in which the question of whether any particular time was a time that was not to be taken into account because of this section is at issue, the burden lies on the prosecution to prove on the balance of probabilities that the particular time was a time that was not to be taken into account.	24 25 26 27 28
118	Detention warrant to extend investigation period (cf Crimes Act 1900, s 356G)	29 30
(1)	A police officer may, before the end of the investigation period, apply to an authorised officer for a warrant to extend the maximum investigation period beyond 4 hours.	31 32 33
(2)	The person to whom an application for a detention warrant relates, or the person's legal representative, may make representations to the authorised officer about the application.	34 35 36

- (3) The authorised officer may issue a warrant that extends the maximum investigation period by up to 8 hours. 1
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- (4) The maximum investigation period cannot be extended more than once. 3
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- (5) An authorised officer must not issue a warrant to extend the maximum investigation period unless satisfied that: 5
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 - (a) the investigation is being conducted diligently and without delay, and 7
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 - (b) a further period of detention of the person to whom the application relates is reasonably necessary to complete the investigation, and 9
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 - (c) there is no reasonable alternative means of completing the investigation otherwise than by the continued detention of the person, and 12
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 - (d) circumstances exist in the matter that make it impracticable for the investigation to be completed within the 4-hour period. 15
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- (6) As soon as reasonably practicable after a detention warrant is issued, the custody manager for the person to whom the warrant relates: 17
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 - (a) must give the person a copy of the warrant, and 19
 - (b) must orally inform the person of the nature of the warrant and its effect. 20
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119 Detention warrants 22

- (1) An application for a detention warrant may be made by the applicant in person or by telephone. 23
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 - Note.** For provisions relating generally to applications for detention warrants and other matters, see section 59. 25
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- (2) In any criminal proceedings, the burden lies on the prosecution to prove on the balance of probabilities that the warrant was issued. 27
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- (3) In the case of an application made for a detention warrant by telephone, the applicant for the warrant must, within one day after the day on which the warrant is issued, give or transmit to the authorised officer concerned an affidavit setting out the information on which the application was based that was given to the authorised officer when the application was made. 29
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120	Information in application for detention warrant (cf Crimes Act 1900, s 356I)	1
(1)	An authorised officer must not issue a detention warrant unless the application for the warrant includes the following information:	2
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(a)	the nature of any offence under investigation,	4
(b)	the general nature of the evidence on which the person to whom the application relates was arrested,	5
		6
(c)	what investigation has taken place and what further investigation is proposed,	7
		8
(d)	the reasons for believing that the continued detention of the person is reasonably necessary to complete the investigation,	9
		10
(e)	the extent to which the person is co-operating in the investigation,	11
		12
(f)	if a previous application for the same, or substantially the same, warrant was refused, details of the previous application and of the refusal and any additional information required,	13
		14
		15
(g)	any other information required by the regulations.	16
(2)	The applicant must provide (either orally or in writing) such further information as the authorised officer requires concerning the grounds on which the detention warrant is being sought.	17
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(3)	Nothing in this section requires an applicant for a detention warrant to disclose the identity of a person from whom information was obtained if the applicant is satisfied that to do so might jeopardise the safety of any person.	20
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121	Detention after arrest for purposes of investigation may count towards sentence (cf Crimes Act 1900, s 356W)	24
		25
	In passing sentence on a person convicted of an offence, a court may take into account any period during which the person was detained under this Part in respect of the offence and may reduce the sentence it would otherwise have passed.	26
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Division 3	Safeguards relating to persons in custody for questioning	1 2
122	Custody manager to caution, and give summary of Part to, detained person (cf Crimes Act 1900, s 356M)	3 4
(1)	As soon as practicable after a person who is detained under this Part (a <i>detained person</i>) comes into custody at a police station or other place of detention, the custody manager for the person must orally and in writing:	5 6 7 8
(a)	caution the person that the person does not have to say or do anything but that anything the person does say or do may be used in evidence, and	9 10 11
(b)	give the person a summary of the provisions of this Part that is to include reference to the fact that the maximum investigation period may be extended beyond 4 hours by application made to an authorised officer and that the person, or the person's legal representative, may make representations to the authorised officer about the application.	12 13 14 15 16 17
(2)	The giving of a caution does not affect a requirement of any law that a person answer questions put by, or do things required by, a police officer.	18 19 20
(3)	After being given the information referred to in subsection (1) orally and in writing, the person is to be requested to sign an acknowledgment that the information has been so given.	21 22 23
123	Right to communicate with friend, relative, guardian or independent person and legal practitioner (cf Crimes Act 1900, s 356N)	24 25
(1)	Before any investigative procedure in which a detained person is to participate starts, the custody manager for the person must inform the person orally and in writing that he or she may:	26 27 28
(a)	communicate, or attempt to communicate, with a friend, relative, guardian or independent person:	29
(i)	to inform that person of the detained person's whereabouts, and	30 31 32
(ii)	if the detained person wishes to do so, to ask the person communicated with to attend at the place where the person is being detained to enable the detained person to consult with the person communicated with, and	33 34 35 36

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| (b) | communicate, or attempt to communicate, with a legal practitioner of the person's choice and ask that legal practitioner to do either or both of the following: | 1
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| (i) | attend at the place where the person is being detained to enable the person to consult with the legal practitioner, | 4
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| (ii) | be present during any such investigative procedure. | 6 |
| (2) | If the person wishes to make any communication referred to in subsection (1), the custody manager must, as soon as practicable: | 7
8 |
| (a) | give the person reasonable facilities to enable the person to do so, and | 9
10 |
| (b) | allow the person to do so in circumstances in which, so far as is practicable, the communication will not be overheard. | 11
12 |
| (3) | The custody manager must defer for a reasonable period any investigative procedure in which the person is to participate: | 13
14 |
| (a) | to allow the person to make, or attempt to make, a communication referred to in subsection (1), and | 15
16 |
| (b) | if the person has asked any person so communicated with to attend at the place where the person is being detained: | 17
18 |
| (i) | to allow the person communicated with to arrive at that place, and | 19
20 |
| (ii) | to allow the person to consult with the person communicated with at that place. | 21
22 |
| (4) | If the person has asked a friend, relative, guardian or independent person communicated with to attend at the place where the person is being detained, the custody manager must allow the person to consult with the friend, relative, guardian or independent person in private and must provide reasonable facilities for that consultation. | 23
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| (5) | If the person has asked a legal practitioner communicated with to attend at the place where the person is being detained, the custody manager must: | 28
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30 |
| (a) | allow the person to consult with the legal practitioner in private and must provide reasonable facilities for that consultation, and | 31
32 |
| (b) | if the person has so requested, allow the legal practitioner to be present during any such investigative procedure and to give advice to the person. | 33
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(6)	Anything said by the legal practitioner during any such investigative procedure is to be recorded and form part of the formal record of the investigation.	1 2 3
(7)	An investigative procedure is not required to be deferred under subsection (3) (b) (i) for more than 2 hours to allow a friend, relative, guardian, independent person or legal practitioner that the person has communicated with to arrive at the place where the person is being detained.	4 5 6 7 8
(8)	An investigative procedure is not required to be deferred to allow the person to consult with a friend, relative, guardian, independent person or legal practitioner who does not arrive at the place where the person is being detained within 2 hours after the person communicated with the friend, relative, guardian, independent person or legal practitioner. This does not affect the requirement to allow a legal practitioner to be present during an investigative procedure and to give advice to the person.	9 10 11 12 13 14 15 16
(9)	The duties of a custody manager under this section owed to a detained person who is not an Australian citizen or a permanent Australian resident are in addition to the duties of the custody manager owed to the person under section 124.	17 18 19 20
(10)	After being informed orally and in writing of his or her rights under this section, the person is to be requested to sign an acknowledgment that he or she has been so informed.	21 22 23
124	Right of foreign national to communicate with consular official (cf Crimes Act 1900, s 356O)	24 25
(1)	This section applies to a detained person who is not an Australian citizen or a permanent Australian resident.	26 27
(2)	Before any investigative procedure in which a person to whom this section applies is to participate starts, the custody manager for the person must inform the person orally and in writing that he or she may:	28 29 30
(a)	communicate, or attempt to communicate, with a consular official of the country of which the person is a citizen, and	31 32
(b)	ask the consular official to attend at the place where the person is being detained to enable the person to consult with the consular official.	33 34 35

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| (3) If the person wishes to communicate with such a consular official, the custody manager must, as soon as practicable: | 1
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| (a) give the person reasonable facilities to enable the person to do so, and | 3
4 |
| (b) allow the person to do so in circumstances in which, so far as is practicable, the communication will not be overheard. | 5
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| (4) The custody manager must defer for a reasonable period any investigative procedure in which the person is to participate: | 7
8 |
| (a) to allow the person to make, or attempt to make, the communication referred to in subsection (2), and | 9
10 |
| (b) if the person has asked any consular official so communicated with to attend at the place where the person is being detained: | 11
12 |
| (i) to allow the consular official to arrive at that place, and | 13 |
| (ii) to allow the person to consult with the consular official. | 14 |
| (5) If the person has asked a consular official communicated with to attend at the place where the person is being detained, the custody manager must allow the person to consult with the consular official in private and must provide reasonable facilities for that consultation. | 15
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| (6) An investigative procedure is not required to be deferred under subsection (4) (b) (i) for more than 2 hours to allow a consular official that the person has communicated with to arrive at the place where the person is being detained. | 19
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| (7) An investigative procedure is not required to be deferred to allow the person to consult with a consular official who does not arrive at the place where the person is being detained within 2 hours after the person communicated with the consular official. | 23
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| (8) After being informed orally and in writing of his or her rights under this section, the person is to be requested to sign an acknowledgment that he or she has been so informed. | 27
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| (9) This section does not apply if the custody manager did not know, and could not reasonably be expected to have known, that the person is not an Australian citizen or a permanent Australian resident. | 30
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125	Circumstances in which certain requirements need not be complied with (cf Crimes Act 1900, s 356P)	1
		2
(1)	A requirement imposed on a custody manager under section 123 relating to a friend, relative, guardian or independent person need not be complied with if the custody manager believes on reasonable grounds that doing so is likely to result in:	3
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		6
(a)	an accomplice of the detained person avoiding arrest, or	7
(b)	the concealment, fabrication, destruction or loss of evidence or the intimidation of a witness, or	8
		9
(c)	hindering the recovery of any person or property concerned in the offence under investigation, or	10
		11
(d)	bodily injury being caused to any other person.	12
(2)	Further, in the case of a requirement that relates to the deferral of an investigative procedure, a requirement imposed on a custody manager under section 123 relating to a friend, relative, guardian or independent person need not be complied with if the custody manager believes on reasonable grounds that the investigation is so urgent, having regard to the safety of other persons, that the investigative procedure should not be deferred.	13
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126	Provision of information to friend, relative or guardian (cf Crimes Act 1900, s 356Q)	20
		21
(1)	The custody manager for a detained person must inform the person orally of any request for information as to the whereabouts of the person made by a person who claims to be a friend, relative or guardian of the detained person.	22
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(2)	The custody manager must provide, or arrange for the provision of, that information to the person who made the request unless:	26
		27
(a)	the detained person does not agree to that information being provided, or	28
		29
(b)	the custody manager believes on reasonable grounds that the person requesting the information is not a friend, relative or guardian of the detained person, or	30
		31
		32
(c)	the custody manager believes on reasonable grounds that doing so is likely to result in:	33
		34
(i)	an accomplice of the detained person avoiding arrest, or	35
(ii)	the concealment, fabrication, destruction or loss of evidence or the intimidation of a witness, or	36
		37

	(iii) hindering the recovery of any person or property concerned in the offence under investigation, or	1 2
	(iv) bodily injury being caused to any other person.	3
127	Provision of information to certain other persons (cf Crimes Act 1900, s 356R)	4 5
	(1) The custody manager for a detained person must inform the person orally of any request for information as to the whereabouts of the person made by a person who claims to be:	6 7 8
	(a) a legal practitioner representing the detained person, or	9
	(b) in the case of a detained person who is not an Australian citizen or a permanent Australian resident, a consular official of the country of which the detained person is a citizen, or	10 11 12
	(c) a person (other than a friend, relative or guardian of the detained person) who is in his or her professional capacity concerned with the welfare of the detained person.	13 14 15
	(2) The custody manager must provide, or arrange for the provision of, that information to the person who made the request unless:	16 17
	(a) the detained person does not agree to that information being provided, or	18 19
	(b) the custody manager believes on reasonable grounds that the person requesting the information is not the person who he or she claims to be.	20 21 22
128	Provision of interpreter (cf Crimes Act 1900, s 356S)	23
	(1) The custody manager for a detained person must arrange for an interpreter to be present for the person in connection with any investigative procedure in which the person is to participate if the custody manager has reasonable grounds for believing that the person is unable:	24 25 26 27 28
	(a) because of inadequate knowledge of the English language, to communicate with reasonable fluency in English, or	29 30
	(b) because of any disability, to communicate with reasonable fluency.	31 32
	(2) The custody manager must ensure that any such investigative procedure is deferred until the interpreter arrives.	33 34

(3) However, the custody manager need not:	1
(a) arrange for an interpreter to be present if the custody manager believes on reasonable grounds that the difficulty of obtaining an interpreter makes compliance with the requirement not reasonably practicable, or	2 3 4 5
(b) defer any such investigative procedure if the custody manager believes on reasonable grounds that the urgency of the investigation, having regard to the safety of other persons, makes such deferral unreasonable.	6 7 8 9
(4) If an interpreter is not available to be present for the person in connection with any investigative procedure in which the person is to participate, the custody manager must instead arrange for a telephone interpreter for the person.	10 11 12 13
(5) The custody manager must ensure that any such investigative procedure is deferred until a telephone interpreter is available.	14 15
(6) However, the custody manager need not:	16
(a) arrange for a telephone interpreter if the custody manager believes on reasonable grounds that the difficulty of obtaining such an interpreter makes compliance with the requirement not reasonably practicable, or	17 18 19 20
(b) defer any such investigative procedure if the custody manager believes on reasonable grounds that the urgency of the investigation, having regard to the safety of other persons, makes such deferral unreasonable.	21 22 23 24
129 Right to medical attention (cf Crimes Act 1900, s 356T)	25
The custody manager for a detained person must arrange immediately for the person to receive medical attention if it appears to the custody manager that the person requires medical attention or the person requests it on grounds that appear reasonable to the custody manager.	26 27 28 29
130 Right to reasonable refreshments and facilities (cf Crimes Act 1900, s 356U)	30
(1) The custody manager for a detained person must ensure that the person is provided with reasonable refreshments and reasonable access to toilet facilities.	31 32 33

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- (2) The custody manager for a detained person must ensure that the person is provided with facilities to wash, shower or bathe and (if appropriate) to shave if:
- (a) it is reasonably practicable to provide access to such facilities, and
 - (b) the custody manager is satisfied that the investigation will not be hindered by providing the person with such facilities.
- 131 Custody records to be maintained** (cf Crimes Act 1900, s 356V)
- (1) The custody manager for a detained person must open a custody record in the form prescribed by the regulations for the person.
- (2) The custody manager must record the following particulars in the custody record for the person:
- (a) the date and time:
 - (i) the person arrived at the police station or other place where the custody manager is located, and
 - (ii) the person came into the custody manager's custody,
 - (b) the name and rank of the arresting officer and any accompanying officers,
 - (c) the grounds for the person's detention,
 - (d) details of any property taken from the person,
 - (e) if the person participates in any investigative procedure, the time the investigative procedure started and ended,
 - (f) details of any period of time that is not to be taken into account under section 117,
 - (g) if the person is denied any rights under this Part, the reason for the denial of those rights and the time when the person was denied those rights,
 - (h) the date and time of, and reason for, the transfer of the person to the custody of another police officer,
 - (i) details of any application for a detention warrant and the result of any such application,
 - (j) if a detention warrant is issued in respect of the person, the date and time a copy of the warrant was given to the person and the person was informed of the nature of the warrant and its effect,
 - (k) the date and time the person is released from detention,

- (1) any other particulars prescribed by the regulations. 1
- (3) The custody manager is responsible for the accuracy and completeness 2
of the custody record for the person and must ensure that the custody 3
record (or a copy of it) accompanies the person if the person is 4
transferred to another location for detention. 5
- (4) The recording of any matters referred to in this section must be made 6
contemporaneously with the matter recorded in so far as it is 7
practicable to do so. 8
- (5) As soon as practicable after the person is released or taken before a 9
Magistrate or authorised officer or court, the custody manager must 10
ensure that a copy of the person's custody record is given to the 11
person. 12

Division 4 Regulations 13

132 Regulations (cf Crimes Act 1900, s 356X) 14

The regulations may make provision for or with respect to the 15
following: 16

- (a) guidelines to be observed by police officers regarding the 17
exercise of functions conferred or imposed on police officers 18
(including custody managers) by this Part, 19
- (b) police officers who may act as custody managers, 20
- (c) the keeping of records relating to persons who are detained 21
under this Part, including the formal record of the conduct of 22
investigative procedures in which such persons participate. 23

Part 10 Other powers relating to persons in custody	1
Note. For searches of persons in custody, see Division 2 of Part 4.	2
Division 1 Taking of identification particulars	3
133 Power to take identification particulars (cf Crimes Act 1900, s 353A)	4
(1) A police officer may take or cause to be taken all particulars that are necessary to identify a person who is in lawful custody and who has been or is intended to be charged with an offence.	5 6 7
(2) If the person is over the age of 14 years, the particulars may include the person's photograph, finger-prints and palm-prints.	8 9
134 Orders for the taking of identification particulars (cf Crimes Act 1900, s 353A)	10 11
(1) A court that finds an offence to which this section applies to have been proven against a person may order the person to present himself or herself in accordance with the terms of the order and submit to the taking, by the officer in charge of the police station specified in the order, of all particulars as are necessary to identify the person.	12 13 14 15 16
(2) The particulars may include the person's photograph, finger-prints and palm-prints.	17 18
(3) The order is to contain a warning to the person that a failure or refusal to comply may result in the person's arrest.	19 20
(4) A person who does not present himself or herself in accordance with the terms of the order may, at the direction of the officer in charge of the police station, be arrested without a warrant and taken into custody for such time as is reasonably necessary for the taking of particulars in accordance with the order.	21 22 23 24 25
(5) This section applies to the following offences:	26
(a) any indictable offence,	27
(b) an offence under section 42 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> of driving a motor vehicle on a road or road related area negligently occasioning death, negligently occasioning grievous bodily harm, furiously or recklessly or at a speed or in a manner that is dangerous to the public,	28 29 30 31 32 33

(c)	an offence under any of the following provisions of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> :	1
(i)	section 9 (1), (2) (a) or (b), (3) (a) or (b), (4) (a) or (b),	2
(ii)	section 12 (1) (a) or (b),	3
(iii)	section 15 (4),	4
(iv)	section 16,	5
(v)	section 22 (2),	6
(vi)	section 29 (2),	7
(vii)	section 43,	8
(viii)	section 70,	9
(d)	an offence prescribed, or of a kind or description prescribed, by the regulations.	10
135	Lawful custody of persons other than police officers (cf Crimes Act 1900, s 353A)	11
(1)	A reference in this Division to lawful custody is a reference to lawful custody of the police or other authority.	12
(2)	If a person is in lawful custody in a place other than a police station, the powers under section 133 or 134 of a police officer may be exercised by the person in charge of the place or by another person who is normally supervised by that person.	13
(3)	The consent of the person in lawful custody is not required for the doing of anything under section 133 or 134.	14
136	Identification particulars of children under 14 years (cf Crimes Act 1900, s 353AA)	15
(1)	This section applies to a child under the age of 14 years who is in lawful custody for an offence.	16
(2)	A person must not take a photograph or the finger-prints or palm-prints of a child except in accordance with this section. Nothing in this section, however, prevents the taking of any child's photograph, finger-prints or palm-prints in accordance with the order of a court under section 134.	17
(3)	A police officer of the rank of sergeant or above may, in respect of a child, apply:	18
(a)	to the Children's Court, or	19

(b)	if it is not possible to apply to the Children's Court within 72 hours after the taking of the child into custody, to an authorised officer,	1 2 3
	for an order authorising, for the purpose only of identifying the child, the taking of the child's photograph, finger-prints and palm-prints.	4 5
(4)	The Children's Court or authorised officer may hear the application and may make the order sought in the application.	6 7
(5)	In determining whether to make the order, the Children's Court or authorised officer is to take into account the following:	8 9
(a)	the seriousness of the circumstances surrounding the offence,	10
(b)	the best interests of the child,	11
(c)	the child's ethnic and cultural origins,	12
(d)	so far as they can be ascertained, any wishes of the child with respect to whether the order should be granted,	13 14
(e)	any wishes expressed by the parent or guardian of the child with respect to whether the order should be granted.	15 16
(6)	A child must not be held in custody for the purpose only of an application being made under this section.	17 18
137	Destruction of certain identification particulars relating to children (cf Crimes Act 1900, s 353AB)	19 20
(1)	If a court finds an offence alleged against a child who has had the child's photograph, finger-prints and palm-prints taken in accordance with this Part not proved, the court must cause to be served on:	21 22 23
(a)	the child, and	24
(b)	if practicable, the parents or guardian of the child, and	25
(c)	any other person who has the care of the child,	26
	a notice stating that if the child or they so desires or desire, the court will order that the photograph, finger-prints and palm-prints, and any other prescribed records (other than the records of the court), relating to the alleged offence be destroyed and the court may make the order accordingly.	27 28 29 30 31
(2)	In this section:	32
	<i>prescribed records</i> means records of the kind prescribed for the purposes of section 38 (1) of the <i>Children (Criminal Proceedings) Act 1987</i> .	33 34 35

Division 2 Examination of persons in custody 1

138 Power to examine person in custody (cf Crimes Act 1900, s 353A (2)) 2

- (1) A medical practitioner acting at the request of a police officer of the rank of sergeant or above, and any person acting in good faith in aid of the medical practitioner and under his or her direction, may examine a person in lawful custody for the purpose of obtaining evidence as to the commission of an offence if: 3
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- (a) the person in custody has been charged with an offence, and 8
- (b) there are reasonable grounds for believing that an examination of the person may provide evidence as to the commission of the offence. 9
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11
- (2) A reference in this section to lawful custody is a reference to lawful custody of the police or other authority. 12
13
- (3) If a person is in lawful custody in a place other than a police station, the powers under subsection (1) of a police officer may be exercised by the person in charge of the place or by another person who is normally supervised by that person. 14
15
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17
- (4) The consent of the person in lawful custody is not required for the doing of anything under subsection (1). 18
19

Part 11	Drug detection powers	1
Division 1	Drug premises	2
139	Definitions (cf Police Powers (Drug Premises) Act 2001, s 3)	3
(1)	In this Division:	4
	<i>drug premises</i> means any premises that are used for the unlawful supply or manufacture of prohibited drugs.	5 6
	<i>lookout</i> , in relation to premises, means a person who is in the vicinity of the premises for the purpose of communicating to any person on the premises to warn the person of impending police action.	7 8 9
	<i>money</i> includes any valuable thing or security for money.	10
	<i>occupier</i> of premises includes the lessee or sublessee who is not the owner of the premises.	11 12
	<i>owner</i> of premises includes any person:	13
(a)	who is entitled to freehold possession of the premises, or	14
(b)	who is in actual receipt of, or entitled to receive, or if the premises were let to a tenant, would be entitled to receive, the rents and profits of the premises.	15 16 17
	<i>prohibited drug</i> does not include cannabis leaf, cannabis oil or cannabis resin.	18 19
(2)	A reference in this Division to an offence includes a reference to an offence that there are reasonable grounds for believing has been, is being, or is to be, committed (as the case requires).	20 21 22
(3)	For the purposes of this Division, a thing is connected with a particular offence if it is:	23 24
(a)	a thing with respect to which the offence has been committed, or	25 26
(b)	a thing that will provide evidence of the commission of the offence, or	27 28
(c)	a thing that was used, or is intended to be used, in or in connection with the commission of an offence.	29 30

140	Issue of search warrant—suspected drug premises (cf Police Powers (Drug Premises) Act 2001, s 5)	1 2
(1)	A police officer of or above the rank of sergeant who has reasonable grounds for believing that any premises are being used for the unlawful supply or manufacture of any prohibited drug may apply to an authorised officer for a search warrant.	3 4 5 6
(2)	An authorised officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any police officer to enter and search the premises.	7 8 9
141	Execution of search warrant (cf Police Powers (Drug Premises) Act 2001, s 6)	10
	For the purposes of executing a search warrant issued under this Division in respect of premises, a police officer may:	11 12
(a)	pass through, from, over or along any other land or building for the purpose of entering the premises, and	13 14
(b)	break open doors, windows or partitions, and	15
(c)	do such other acts as may be necessary.	16
142	Search and arrest of persons pursuant to search warrant (cf Police Powers (Drug Premises) Act 2001, s 7)	17 18
(1)	A police officer executing a search warrant issued under this Division may:	19 20
(a)	search any person on the premises, and	21
(b)	arrest or otherwise proceed against any person on the premises, and	22 23
(c)	seize and detain any firearm or other thing found on the premises that the police officer has reasonable grounds for believing is connected with an offence, and	24 25 26
(d)	without limiting paragraph (c), seize any prohibited drug and money found on the premises and any syringe or other thing that is kept or used in connection with, or that relates to, any activity prohibited by or under the <i>Drug Misuse and Trafficking Act 1985</i> , and	27 28 29 30 31
(e)	require any person on the premises to disclose his or her identity.	32 33

(2) The power conferred by subsection (1) to seize and detain a thing includes:	1
	2
(a) power to remove the thing from the premises where it is found, and	3
	4
(b) power to guard the thing in or on those premises.	5
143 Obstructing police officer executing search warrant (cf Police Powers (Drug Premises) Act 2001, s 9)	6
	7
(1) If a police officer is authorised under this Division to enter any premises, a person must not:	8
	9
(a) wilfully prevent the officer from entering or re-entering those premises or any part of those premises, or	10
	11
(b) wilfully obstruct or delay the officer from entering or re-entering those premises or any part of those premises, or	12
	13
(c) give an alarm or cause an alarm to be given for the purpose of:	14
(i) notifying another person of the presence of the officer, or	15
	16
(ii) obstructing or delaying the officer from entering or re-entering those premises or any part of those premises.	17
	18
	19
Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.	20
	21
(2) A person on premises who is requested by a police officer in accordance with this Division and section 201 to disclose his or her identity must not, without reasonable excuse, fail or refuse to comply with the request.	22
	23
	24
	25
Maximum penalty: 50 penalty units.	26
(3) A person must not, without reasonable excuse, in response to a request made by a police officer in accordance with this Division:	27
	28
(a) give a name that is false in a material particular, or	29
(b) give an address other than the person's full and correct address.	30
Maximum penalty: 50 penalty units.	31

144	Application of other laws (cf Police Powers (Drug Premises) Act 2001, s 18)	1
	This Division does not limit the operation of the <i>Disorderly Houses Act 1943</i> or any other law of the State relating to the entry into, and carrying out of searches on, premises.	2 3 4
Division 2	Use of drug detection dogs	5
145	Meaning of “general drug detection” (cf Police Powers (Drug Detection Dogs) Act 2001, s 5)	6 7
	For the purposes of this Division:	8
	<i>general drug detection</i> is the detection of prohibited drugs or plants in the possession or control of a person, except during a search of a person that is carried out after a police officer reasonably suspects that the person is committing a drug offence.	9 10 11 12
146	General authority to use drug detection dogs (cf Police Powers (Drug Detection Dogs) Act 2001, s 4)	13 14
	(1) If a police officer is authorised to search a person for the purpose of detecting a drug offence, the officer is entitled to use a dog for that purpose.	15 16 17
	(2) A police officer is, for the purpose of detecting a drug offence, entitled to be accompanied by a dog under the officer’s control if the officer is entitled to enter, or be in or on, particular premises in the exercise of the officer’s functions.	18 19 20 21
	(3) Neither the State nor a police officer is liable to any action, liability, claim or demand merely because a dog entered, or was in or on, premises as provided by this section.	22 23 24
147	Use of dogs for general drug detection authorised (cf Police Powers (Drug Detection Dogs) Act 2001, s 6)	25 26
	A police officer is authorised to use a dog to carry out general drug detection, but only as provided by this Division.	27 28

148	General drug detection with dogs in authorised places (cf Police Powers (Drug Detection Dogs) Act 2001, s 7)	1
		2
(1)	A police officer may, without a warrant, use a dog to carry out general drug detection in relation to the following persons:	3
		4
(a)	persons at, or seeking to enter or leave, any part of premises being used for the consumption of liquor that is sold at the premises (other than any part of premises being used primarily as a restaurant or other dining place),	5
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(b)	persons at, or seeking to enter or leave, a public place at which a sporting event, concert or other artistic performance, dance party, parade or other entertainment is being held,	9
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(c)	persons on, or seeking to enter or leave, a public passenger vehicle that is travelling on a route prescribed by the regulations, or a station, platform or stopping place on any such route.	12
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(2)	In this section:	16
	<i>public passenger vehicle</i> means a train, light rail vehicle or bus that is used to provide a public passenger service.	17
		18
149	General drug detection with dogs by warrant (cf Police Powers (Drug Detection Dogs) Act 2001, s 8)	19
		20
(1)	A police officer may use a dog to carry out general drug detection if authorised to do so by a warrant under this section.	21
		22
(2)	A police officer who has reasonable grounds for believing that the persons at any public place may include persons committing drug offences may apply to an authorised officer for a warrant under this section.	23
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(3)	An authorised officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a warrant authorising any police officer to use a dog to carry out general drug detection in the public place during the period or periods specified in the warrant.	27
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(4)	An application for a warrant under this section must disclose whether any general drug detection to be carried out under the warrant will be part of a covert police operation.	32
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150	Provisions relating to general drug detection (cf Police Powers (Drug Detection Dogs) Act 2001, s 9)	1 2
(1)	A police officer carrying out general drug detection under this Division is to take all reasonable precautions to prevent the dog touching a person.	3 4 5
(2)	A police officer is required to keep a dog under control when the officer is using the dog to carry out general drug detection under this Division.	6 7 8
(3)	General drug detection under this Division may be carried out as part of a covert police operation, but only if it is authorised by a warrant under this Division.	9 10 11
(4)	The provisions of this Division do not affect:	12
(a)	the search of a person whom a police officer reasonably suspects is committing a drug offence, or	13 14
(b)	any search of premises that does not involve a search of persons in or on the premises.	15 16
(5)	Nothing in this Division confers on a police officer a power:	17
(a)	to enter any premises that the officer is not otherwise authorised to enter, or	18 19
(b)	to detain a person who the officer is not otherwise authorised to detain.	20 21
Division 3	Use of medical imaging to search for internally concealed drugs	22 23
151	Definitions (cf Police Powers (Internally Concealed Drugs) Act 2001, s 3)	24
(1)	In this Division:	25
	<i>Aboriginal legal aid organisation</i> means an organisation that provides legal assistance to Aboriginal persons or Torres Strait Islanders, being an organisation prescribed by the regulations for the purposes of this definition.	26 27 28 29
	<i>appropriately qualified person</i> , in relation to carrying out an internal search, means a person:	30 31
(a)	having suitable qualifications to carry out the internal search, or	32
(b)	qualified under the regulations to carry out the internal search.	33

<i>child</i> means a person who is at least 10 years of age but under 18 years of age.	1 2
<i>eligible judicial officer</i> means a judicial officer in relation to whom a consent under section 152 (1) and a declaration under section 152 (2) are in force.	3 4 5
<i>incapable person</i> means an adult who:	6
(a) is incapable of understanding the general nature and effect of an internal search of the person's body, or	7 8
(b) is incapable of indicating whether he or she consents or does not consent to an internal search being carried out.	9 10
<i>informed consent</i> is defined in subsection (3).	11
<i>internal search</i> means any search of a person's body involving an ultrasound, MRI, X-ray, CAT scan or other form of medical imaging, but does not include a search of a person involving an intrusion into the person's body cavities.	12 13 14 15
<i>judicial officer</i> means a person who is:	16
(a) a Judge of the Supreme Court, or	17
(b) a Judge of the District Court, or	18
(c) a Magistrate.	19
<i>police station</i> includes:	20
(a) a police station of a State or Territory, and	21
(b) a building that is occupied by members of NSW Police and that is nominated by the Commissioner for the purposes of this paragraph, and	22 23 24
(c) a building occupied by the Australian Federal Police.	25
<i>search friend</i> of a suspect means:	26
(a) a parent or guardian of the suspect, or	27
(b) a legal representative of the suspect, or	28
(c) if the suspect is an Aboriginal person or a Torres Strait Islander and none of the previously mentioned persons is available—a representative of an Aboriginal legal aid organisation or a person whose name is on the relevant list maintained under section 184 who is chosen by, or is acceptable to, the suspect, or	29 30 31 32 33 34
(d) any other person chosen by, or acceptable to, the suspect.	35

- suspect* means a person whom a police officer suspects on reasonable grounds has swallowed or is internally concealing a prohibited drug that the suspect has in his or her possession for the purpose of committing an offence against the *Drug Misuse and Trafficking Act 1985* involving the supply of prohibited drugs. 1
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- time out* means: 6
- (a) the time (if any) that is reasonably required to convey a suspect, in accordance with requirements of this Division, to the nearest police station, or to a hospital or other place where an internal search may be carried out, 7
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 - (b) any time that is reasonably spent waiting for a medical practitioner or appropriately qualified person to arrive at the hospital or other place where the internal search is to be carried out, 11
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 - (c) any time that is reasonably spent waiting for facilities or equipment that are needed to carry out the internal search to become available, 15
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 - (d) any time during which carrying out the internal search is suspended or delayed to allow the suspect, or someone else on the suspect's behalf, to communicate with a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner or other person as provided by this Division, 18
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 - (e) any time during which carrying out the internal search is suspended or delayed to allow such a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner or other person to arrive at the place where the internal search is to be carried out, 23
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 - (f) any time during which carrying out the internal search is suspended or delayed to allow the suspect to consult with a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner or other person at the place where the internal search is to be carried out as provided by this Division, 28
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 - (g) any time during which carrying out the internal search is suspended or delayed to allow the suspect to receive medical attention, 33
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 - (h) any time during which carrying out the internal search is suspended or delayed to allow the suspect to recover from the effects of intoxication due to alcohol or another drug (or both), 36
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| (i) | any time during which carrying out the internal search is suspended or delayed to allow the suspect to rest or receive refreshments or to give the suspect access to toilet and other facilities, | 1
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| (j) | any time during which carrying out the internal search is suspended or delayed at the request of the suspect, | 5
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| (k) | any time that is reasonably spent waiting for an eligible judicial officer to make an order as provided by this Division. | 7
8 |
| (2) | For the purposes of this Division, a person <i>informs</i> another person of a matter if the person informs the other person of the matter, through an interpreter if necessary, in a language (including sign language or braille) in which the other person is able to communicate with reasonable fluency. | 9
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| (3) | A suspect gives <i>informed consent</i> to the carrying out of an internal search of the suspect if the suspect consents after a police officer: | 14
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| (a) | asks the suspect to consent under section 156, and | 16 |
| (b) | informs the suspect about the internal search in accordance with section 157, and | 17
18 |
| (c) | gives the suspect a reasonable opportunity to communicate, or attempt to communicate, with a legal practitioner of the suspect's choice. | 19
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| 152 | Eligible judicial officers (cf Police Powers (Internally Concealed Drugs) Act 2001, s 4) | 22
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| (1) | A judicial officer may, by instrument in writing, consent to be nominated by the Attorney General under subsection (2). | 24
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| (2) | The Attorney General may, by instrument in writing, declare judicial officers in relation to whom consents are in force under subsection (1) to be eligible judicial officers for the purposes of this Division. | 26
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| (3) | An eligible judicial officer has, in relation to the exercise of a function conferred on an eligible judicial officer by this Division, the same protection and immunity as: | 29
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| (a) | in the case of a person who is a Judge of the Supreme Court—a Judge of the Supreme Court has in relation to proceedings in the Supreme Court, or | 32
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(b)	in the case of a person who is a Judge of the District Court—a Judge of the District Court has in relation to proceedings in the District Court, or	1 2 3
(c)	in the case of a person who is a Magistrate—a Magistrate has in relation to proceedings in a Local Court.	4 5
(4)	A judicial officer who has given consent under this section may, by instrument in writing, revoke the consent.	6 7
(5)	The Attorney General may, by instrument in writing, amend or revoke a declaration under this section.	8 9
153	Division does not apply to persons under 10 (cf Police Powers (Internally Concealed Drugs) Act 2001, s 6)	10 11
	This Division does not authorise the carrying out of an internal search on a person who is under the age of 10 years.	12 13
154	When may an internal search be carried out? (cf Police Powers (Internally Concealed Drugs) Act 2001, s 7)	14 15
	A medical practitioner or appropriately qualified person is authorised to carry out an internal search in accordance with this Division if:	16 17
(a)	a suspect (other than a child or incapable person)—with the written informed consent of the suspect, or	18 19
(b)	a suspect who is a child or incapable person—by order of an eligible judicial officer under section 161, or	20 21
(c)	a suspect who has refused consent—by order of an eligible judicial officer under section 161.	22 23
155	Police officer may detain suspect to request consent, or apply for order for, an internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 8)	24 25 26
(1)	A police officer may detain a person for the purpose of requesting the person to consent to, or for the purpose of making an application for an order for, an internal search of the person, if the police officer:	27 28 29
(a)	is satisfied that the person is a suspect, and	30
(b)	has reasonable grounds to believe that the internal search is likely to produce evidence confirming that the person has committed or is committing an offence under the <i>Drug Misuse and Trafficking Act 1985</i> involving the supply of a prohibited drug, and	31 32 33 34 35

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| (c) | is satisfied that the detention is justified in all the circumstances. | 1
2 |
| (2) | A person detained under this section must be taken as soon as practicable to a police station. | 3
4 |
| (3) | A person must not be detained under this section: | 5 |
| (a) | if the person is under arrest—for a period of more than 2 hours after the expiration of the investigation period provided for by Part 9, or | 6
7
8 |
| (b) | if the person is not under arrest—for a period of more than 2 hours after the person is detained under this section. | 9
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| (4) | In working out any period of time for the purposes of subsection (3), any time out is to be disregarded. | 11
12 |
| (5) | A police officer exercising a power under this section in relation to a person must produce identification as such an officer if requested by the person to do so (unless the police officer is in uniform). | 13
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| 156 | Police officer may request consent of certain suspects for internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 9) | 16
17 |
| (1) | A police officer may request a suspect (other than a child or incapable person) who is detained under section 155 to consent to an internal search. | 18
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20 |
| (2) | The police officer must inform the suspect as required by section 157 before making the request. | 21
22 |
| (3) | The police officer must not ask a suspect who is an Aboriginal person or Torres Strait Islander to consent to an internal search unless: | 23
24 |
| (a) | a search friend of the suspect is present, or | 25 |
| (b) | the suspect has expressly and voluntarily waived his or her right to have a search friend present. | 26
27 |
| (4) | Despite subsection (3), a search friend may be excluded from the presence of the suspect if a police officer has reasonable grounds to believe that the presence of the search friend could be prejudicial to the prevention, detection or investigation of, or dealing with, any contravention or possible contravention of the law. | 28
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| (5) | If the suspect consents to the internal search the police officer must, as soon as practicable, arrange for the search to be carried out. | 33
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(6) If the suspect does not consent to the internal search:	1
(a) the suspect must (unless otherwise in custody) be released immediately, or	2 3
(b) an application must, as soon as practicable, be made under section 159 for an order for the carrying out of the search.	4 5
157 Matters that suspect must be informed of before giving consent to an internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 10)	6 7
A police officer who asks a suspect (other than a child or incapable person) for consent to carry out an internal search must (personally or in writing) inform the suspect of the following matters:	8 9 10
(a) that the giving of information under this section, and the giving of consent (if any) by the suspect, is being or will be recorded by electronic means, or in writing, and that the suspect has a right to be given an opportunity to hear or view the recording as provided by section 175,	11 12 13 14 15
(b) the kinds of procedures that can be used to carry out an internal search,	16 17
(c) that if the internal search reveals the presence of matter that could be drugs in the suspect's body the suspect may be detained at a hospital or the surgery or other practising rooms of a medical practitioner for a period of up to 48 hours for the purpose of obtaining evidence against the suspect that might be used in a court of law,	18 19 20 21 22 23
(d) that the internal search will be carried out by a medical practitioner or appropriately qualified person,	24 25
(e) that the suspect may ask for a medical practitioner of his or her choice to be present while the internal search is carried out,	26 27
(f) if the police officer believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander, that the suspect's search friend may be present while the search is carried out,	28 29 30 31
(g) that the suspect may refuse to consent to the carrying out of the internal search,	32 33
(h) that, if the suspect does not consent, an application may be made to an eligible judicial officer for an order authorising the carrying out of the internal search.	34 35 36

158	Procedure after the carrying out of an internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 11)	1
		2
	(1) If an internal search carried out on a suspect does not reveal the presence in the suspect's body of any matter that, in the opinion of the person carrying out the search, could be drugs, the suspect must (unless otherwise in custody) be released immediately.	3
		4
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		6
	(2) If an internal search carried out on a suspect reveals the presence in the suspect's body of any matter that, in the opinion of the person carrying out the search, could be drugs the suspect may be detained at a hospital or the surgery or other practising rooms of a medical practitioner for a period not exceeding 48 hours (or such longer period as may be extended by a detention order under section 182) after the carrying out of the internal search.	7
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159	Application for order for internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 12)	14
		15
	(1) A police officer may apply to an eligible judicial officer for an order authorising:	16
		17
	(a) an internal search of a suspect, and	18
	(b) the detention of the suspect for the purposes of the internal search being carried out.	19
		20
	(2) An application for an order must:	21
	(a) be in writing, and	22
	(b) be supported by evidence dealing with the matters referred to in section 155, and	23
		24
	(c) be made in the presence of the suspect (subject to any contrary order made by the eligible judicial officer).	25
		26
160	Procedure at hearing of application for order (cf Police Powers (Internally Concealed Drugs) Act 2001, s 13)	27
		28
	(1) An order may be made only in the presence of the suspect concerned, subject to any contrary order made by the eligible judicial officer.	29
		30
	(2) A suspect who is:	31
	(a) a child, or	32
	(b) an incapable person,	33
	must have a search friend and may also be represented by a legal practitioner.	34
		35

(3)	If the applicant for the order believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander not covered by subsection (2), the suspect:	1
		2
		3
(a)	must have a search friend, and	4
(b)	may also be represented by a legal practitioner.	5
(4)	Subsection (3) (a) does not apply if the suspect expressly and voluntarily waives his or her right to have a search friend present.	6
		7
(5)	Any other suspect (including a suspect covered by subsection (2)) may be represented by a legal practitioner.	8
		9
(6)	The suspect or his or her representative:	10
(a)	may cross-examine the applicant for the order, and	11
(b)	may, with the leave of the eligible judicial officer, call or cross-examine any other witness, and	12
		13
(c)	may address the eligible judicial officer.	14
(7)	An eligible judicial officer must not give leave under subsection (6) (b) unless the eligible judicial officer is of the opinion that there are substantial reasons why, in the interests of justice, the witness should be called or cross-examined.	15
		16
		17
		18
(8)	Despite subsections (2) and (3), the suspect's search friend may be excluded from the hearing if the search friend unreasonably interferes with or obstructs the hearing of the application.	19
		20
		21
161	Orders for internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 14)	22
		23
(1)	An eligible judicial officer may make an order:	24
(a)	authorising an internal search of a suspect, and	25
(b)	the detention of the suspect for a period not exceeding 24 hours for the purposes of the internal search being carried out.	26
		27
(2)	An eligible judicial officer may make an order for the internal search of a suspect only if the eligible judicial officer is satisfied that:	28
		29
(a)	the person is a suspect, and	30
(b)	there are reasonable grounds to believe that the internal search is likely to produce evidence confirming that the person has committed or is committing an offence under the <i>Drug Misuse and Trafficking Act 1985</i> relating to the supply of a prohibited drug, and	31
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- (c) the making of the order is justified in all the circumstances. 1
- (3) An eligible judicial officer must not make an order for an internal 2
search if for any reason an internal search cannot safely be carried out 3
on the suspect (for example, because it would endanger the physical 4
health of the suspect if such a search were carried out). 5
- (4) Without limiting subsection (3), an eligible judicial officer must not 6
make an order for an internal search of a child involving 7
electromagnetic radiation or radiography if satisfied that such a 8
procedure has been carried out on the child under this Act on 2 or 9
more occasions in the previous 2 years unless the eligible judicial 10
officer considers that exceptional circumstances exist that otherwise 11
justify the making of the order. 12
- (5) If the eligible judicial officer does not make such an order, the eligible 13
judicial officer must (unless the suspect is otherwise in custody) order 14
that the suspect be released immediately. 15
- (6) If an eligible judicial officer makes an order under this section in 16
respect of a suspect who the eligible judicial officer is satisfied is an 17
Aboriginal person or a Torres Strait Islander, a child or an incapable 18
person, the eligible judicial officer must appoint a person (not being a 19
police officer) to represent the suspect's interests as a search friend in 20
relation to this Division. 21
- (7) A person must not be appointed as a search friend if the applicant for 22
the order under this section satisfies the eligible judicial officer that 23
there are reasonable grounds to believe that the appointment of the 24
person as a search friend could be prejudicial to the prevention, 25
detection or investigation of, or dealing with, any contravention or 26
possible contravention of the law. 27
- 162 Internal search** (cf Police Powers (Internally Concealed Drugs) Act 2001, s 15) 28
- (1) An internal search is to be carried out by a medical practitioner or an 29
appropriately qualified person. 30
- (2) If the suspect is an Aboriginal person or a Torres Strait Islander or a 31
child or incapable person, the search is to be carried out in the 32
presence of the search friend appointed by the eligible judicial officer 33
under section 161 (6). 34

(3) The search is to be carried out at:	1
(a) a hospital, or	2
(b) the surgery or other practising rooms of a medical practitioner.	3
163 Conduct of internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 16)	4
A medical practitioner or appropriately qualified person may, in carrying out an internal search under this Division, use any medical procedure or apparatus that the medical practitioner or appropriately qualified person considers to be reasonably safe in the circumstances.	5
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164 Medical practitioner may take action to preserve suspect's life (cf Police Powers (Internally Concealed Drugs) Act 2001, s 17)	10
	11
(1) A medical practitioner may take such measures in relation to a suspect detained under this Division, including removal to another place, as the medical practitioner considers necessary because the suspect's life is at risk, including measures involving surgical incision or exploration.	12
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(2) While the suspect is being so removed to a place, and while he or she is at that place:	16
	17
(a) he or she may be detained under this subsection, and	18
(b) time is not to be taken to run under an order under this Division.	19
	20
165 General rules for carrying out internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 18)	21
	22
An internal search:	23
(a) must be carried out in circumstances affording reasonable privacy to the suspect and except as permitted (expressly or impliedly) by any other provision of this Division, must not be carried out in the presence or view of a person who is of the opposite sex to the suspect, and	24
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(b) must not be carried out in the presence or view of a person (other than the police officer having custody of the suspect) whose presence is not necessary for the purposes of the internal search or required or permitted by another provision of this Division, and	29
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(c) must not involve the removal of more clothing than is necessary for the carrying out of the internal search, and	34
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	(d) must not involve more visual inspection than is necessary for the carrying out of the internal search.	1 2
166	No questioning during internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 19)	3 4
	(1) An internal search must not be carried out while a suspect is being questioned. If questioning has not been completed before an internal search is to be carried out, it must be suspended while the internal search is carried out.	5 6 7 8
	(2) In this section, a reference to questioning a suspect is a reference to questioning the suspect, or carrying out an investigation (in which the suspect participates), to investigate the involvement (if any) of the suspect in any offence relating to the supply of prohibited drugs (including an offence for which the suspect is not in custody).	9 10 11 12 13
167	Suspect must be cautioned before internal search (cf Police Powers (Internally Concealed Drugs) Act 2001, s 20)	14 15
	Before anyone starts to carry out an internal search on a suspect, a police officer must caution the suspect that he or she does not have to say anything while the search is carried out but that anything the person does say may be used in evidence.	16 17 18 19
	Note. A failure to caution a suspect may result in evidence that is obtained being inadmissible—see section 138 of the <i>Evidence Act 1995</i> .	20 21
168	Internal searches not to be carried out in cruel, inhuman or degrading manner (cf Police Powers (Internally Concealed Drugs) Act 2001, s 21)	22 23
	Nothing in this Division authorises the carrying out of an internal search in a cruel, inhuman or degrading manner but the carrying out of an internal search on a suspect in accordance with this Division is not of itself taken to be cruel, inhuman or degrading to the suspect.	24 25 26 27
169	Medical practitioner or appropriately qualified person to prepare report (cf Police Powers (Internally Concealed Drugs) Act 2001, s 22)	28 29
	(1) As soon as practicable after completing an internal search under this Division, the medical practitioner or practitioners involved or the appropriately qualified person must give the Commissioner a written report in the form approved by the Commissioner.	30 31 32 33
	(2) The report must indicate whether the internal search involved the use of electromagnetic radiation or radiography.	34 35

(3)	This section is not limited by any law relating to privilege or confidentiality.	1 2
(4)	In any proceedings under this Division, a report given to the Commissioner under this section is proof (unless evidence is adduced to the contrary) of the facts stated in the report.	3 4 5
170	Suspect's rights during detention (cf Police Powers (Internally Concealed Drugs) Act 2001, s 23)	6 7
(1)	A person detained under this Division may at any time:	8
(a)	consult a legal practitioner, or	9
(b)	except as provided by subsection (3), communicate with another person.	10 11
(2)	If a person detained under this Division wishes to consult a legal practitioner, a police officer must, if reasonably practicable, arrange for the person to consult a legal practitioner of the person's choice.	12 13 14
(3)	A police officer may stop a person so detained from communicating with another person (other than a legal practitioner) if the officer believes on reasonable grounds that such communication should be stopped in order to:	15 16 17 18
(a)	safeguard the processes of law enforcement, or	19
(b)	protect the life and safety of any person.	20
171	Interpreters (cf Police Powers (Internally Concealed Drugs) Act 2001, s 24)	21
(1)	If:	22
(a)	a police officer proposes to take an action listed in subsection (2), and	23 24
(b)	the police officer believes on reasonable grounds that the suspect is unable, because of inadequate knowledge of the English language or a physical disability, to communicate orally with reasonable fluency in the English language,	25 26 27 28
	the police officer must, before taking the proposed action:	29
(c)	arrange for the presence of an interpreter to assist the suspect to communicate, and defer taking the proposed action until the interpreter is present, or	30 31 32

(d)	if it is not reasonably practicable for an interpreter to be present, arrange for the assistance of an interpreter by means of an audio link facility.	1 2 3
(2)	The actions are as follows:	4
(a)	asking a suspect to consent to an internal search,	5
(b)	applying to an eligible judicial officer for the carrying out of an internal search on a suspect,	6 7
(c)	cautioning a suspect,	8
(d)	arranging for the carrying out of an internal search on a suspect,	9 10
(e)	giving a suspect an opportunity to hear or view an audio or video recording made under this Division.	11 12
(3)	In this section:	13
	<i>audio link facility</i> means a facility (including telephone) that enables audio communication between persons at different places.	14 15
172	Withdrawal of consent (cf Police Powers (Internally Concealed Drugs) Act 2001, s 25)	16 17
	If a person expressly withdraws consent to the carrying out of an internal search under this Division (or if the withdrawal of such consent can reasonably be inferred from the person's conduct) before or during the carrying out of the internal search:	18 19 20 21
(a)	the internal search is to be treated from the time of the withdrawal as an internal search for which consent has been refused, and	22 23 24
(b)	the internal search is not to proceed except by order of an eligible judicial officer under this Division.	25 26
173	Powers and entitlements of legal representatives and search friends (cf Police Powers (Internally Concealed Drugs) Act 2001, s 26)	27 28
(1)	A request or objection that may be made by a suspect under this Division may be made on the suspect's behalf by:	29 30
(a)	in any case—the suspect's legal representative, or	31
(b)	if the suspect is a child or an incapable person—a search friend of the suspect, or	32 33

(c)	if a police officer believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander—a search friend of the suspect.	1 2 3
(2)	If:	4
(a)	a provision of this Division requires a suspect to be informed of a matter, and	5 6
(b)	a search friend or legal representative of the suspect is present when the suspect is to be so informed,	7 8
	the search friend or legal representative must also be informed of the matter.	9 10
174	Recording of giving of information and suspect's responses (cf Police Powers (Internally Concealed Drugs) Act 2001, s 27)	11 12
(1)	The police officer who asks a suspect to consent to an internal search must, if practicable, ensure that the giving of the information about the proposed internal search and the suspect's responses (if any) are recorded by electronic means.	13 14 15 16
(2)	If recording the giving of the information and the suspect's responses (if any) by electronic means is not practicable, the police officer must ensure that a written record of the giving of the information and the suspect's responses (if any) is made, and that a copy of the record is made available to the suspect.	17 18 19 20 21
175	Obligation of police officers relating to recordings (cf Police Powers (Internally Concealed Drugs) Act 2001, s 28)	22 23
(1)	If a recording is made as required by a provision of this Division, a police officer must ensure that:	24 25
(a)	if an audio recording only or a video recording only is made—the suspect concerned is given the opportunity to listen to or view the recording, and	26 27 28
(b)	if both an audio recording and a video recording are made:	29
(i)	the suspect is given an opportunity to listen to the audio recording, and	30 31
(ii)	the suspect is given an opportunity to view the video recording, and	32 33
(iii)	in any case, if a transcript of the recording is made—a copy of the transcript is made available to the suspect.	34 35

(2)	If a police officer is required to ensure that a suspect is given an opportunity to listen to or view an audio or video recording made under this Division, the police officer must ensure that the same opportunity is given to:	1
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(a)	in any case—the suspect’s legal representative, and	5
(b)	if the suspect is a child or an incapable person—a search friend of the suspect, and	6
		7
(c)	if the police officer believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander—a search friend of the suspect.	8
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(3)	Subsection (2) (b) and (c) does not apply if the suspect expressly and voluntarily waived his or her right to have a search friend present.	11
		12
176	Material required to be made available to suspect (cf Police Powers (Internally Concealed Drugs) Act 2001, s 29)	13
		14
	Without limiting the way in which material that must be made available to a suspect under this Division may be made available, it:	15
		16
(a)	may be sent to the suspect at his or her last known address (if any), or to the suspect’s legal representative (if any) at his or her last known address, or	17
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(b)	if there is no known address as mentioned in paragraph (a), may be made available for collection by the suspect, at the police station where the police officer who detained the suspect under section 155 was based at the time of detention.	20
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177	No charge for material (cf Police Powers (Internally Concealed Drugs) Act 2001, s 30)	24
		25
	If a provision of this Division requires material of any kind to be given to a suspect, or an opportunity to view a video recording to be given to a suspect, the material or the opportunity to view the video recording must be given without charge.	26
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178	Burden of proof (cf Police Powers (Internally Concealed Drugs) Act 2001, ss 31, 32, 33, 34)	30
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(1)	In any proceedings, the burden lies on the prosecution to prove on the balance of probabilities that a police officer had a belief on reasonable grounds, or suspected on reasonable grounds, as to a matter referred to in this Division.	32
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(2)	In any proceedings, the burden lies on the prosecution to prove on the balance of probabilities that it was not practicable to do something required by this Division to be done if practicable.	1 2 3
(3)	In any proceedings, the burden lies on the prosecution to prove on the balance of probabilities that any particular time was covered by a provision of this Division.	4 5 6
(4)	In any proceedings:	7
(a)	the burden lies on the prosecution to prove that an Aboriginal person or Torres Strait Islander has waived a right as mentioned in this Division, and	8 9 10
(b)	the burden is not discharged unless the court is satisfied on the balance of probabilities that the person voluntarily waived that right, and did so with full knowledge and understanding of what he or she was doing.	11 12 13 14
179	Liability of medical practitioners and appropriately qualified persons (cf Police Powers (Internally Concealed Drugs) Act 2001, s 35)	15 16
	No civil or criminal liability is incurred by any medical practitioner or appropriately qualified person who carries out, or helps to carry out, an internal search under this Division in respect of anything properly and necessarily done or omitted to be done in good faith by the medical practitioner or appropriately qualified person in carrying out or helping to carry out the search if the medical practitioner or appropriately qualified person believed on reasonable grounds that:	17 18 19 20 21 22 23
(a)	consent had been given to the carrying out of the internal search, or	24 25
(b)	the carrying out of the internal search without consent had been duly ordered by an eligible judicial officer under this Division.	26 27
180	Medical practitioners and appropriately qualified persons not obliged to carry out internal searches (cf Police Powers (Internally Concealed Drugs) Act 2001, s 36)	28 29 30
	Nothing in this Division requires a medical practitioner or appropriately qualified person to carry out an internal search.	31 32

181	Relationship to Part 9 (cf Police Powers (Internally Concealed Drugs) Act 2001, s 37)	1
		2
	(1) Nothing in this Division is intended to limit the rights and protections provided by Part 9 to the extent that the provisions of that Part can operate in circumstances covered by this Division.	3
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	(2) The rights and protections conferred by this Division are in addition to those conferred by Part 9 but, to the extent (if any) that compliance with this Division results in compliance with that Part, the requirements of that Part are satisfied.	6
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	(3) Except as provided by subsection (4), this Division does not authorise keeping a suspect in custody, in order to carry out an internal search, for more than 24 hours (or such longer period as may be extended by a detention order under section 182) after the suspect consents to, or an eligible judicial officer authorises, the carrying out of the internal search.	10
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	(4) Despite subsection (3), a suspect may be kept in custody for up to 48 hours (or such longer period as may be extended by a detention order under section 182) after an internal search carried out on the suspect reveals the presence of matter that could be drugs in the suspect's body.	16
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	(5) In working out any period of time for the purposes of subsection (3) or (4), time out is to be disregarded.	21
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	(6) In working out whether the investigation period for the purposes of Part 9 has expired, any time that is reasonably required to carry out an internal search authorised by this Division is to be taken into account.	23
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182	Detention orders (cf Police Powers (Internally Concealed Drugs) Act 2001, s 38)	26
	(1) A police officer may, before the end of a period referred to in section 158 or 181, apply to an eligible judicial officer to extend the maximum period for which a suspect may be detained under that section.	27
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	(2) The eligible judicial officer may order that the maximum period be extended by a period (not exceeding 48 hours) specified in the order.	31
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	(3) An eligible judicial officer must not extend the period unless satisfied that the further period is reasonably necessary to carry out an internal search or to confirm that matter present in the suspect's body that was revealed by an internal search is drugs.	33
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(4)	The maximum period must not be extended a second time unless an eligible judicial officer is satisfied that there are exceptional circumstances that justify the extension.	1 2 3
(5)	The maximum period cannot in any circumstances be extended more than twice.	4 5
183	Restrictions on publication (cf Police Powers (Internally Concealed Drugs) Act 2001, s 39)	6 7
(1)	A person must not intentionally or recklessly, in any report of a proceeding under this Division, publish:	8 9
(a)	the name of the suspect on whom an internal search is carried out or proposed to be carried out under this Division in relation to an offence of supplying a prohibited drug, or	10 11 12
(b)	any information likely to enable the identification of the suspect,	13 14
	unless the suspect has been charged with the offence or an eligible judicial officer, by order, has authorised such publication.	15 16
	Maximum penalty: 50 penalty units or imprisonment for 12 months, or both	17 18
(2)	This section does not make it an offence to publish the name of a suspect or any information likely to enable the identification of a suspect if the publication is solely for the purposes of the internal management of NSW Police or the investigation of an offence by a law enforcement officer.	19 20 21 22 23
(3)	In this section:	24
	law enforcement agency means each of the following:	25
(a)	NSW Police,	26
(b)	the Independent Commission Against Corruption,	27
(c)	the New South Wales Crime Commission,	28
(d)	the Police Integrity Commission,	29
(e)	the Australian Federal Police,	30
(f)	the National Crime Authority,	31
(g)	any other agency prescribed for the purposes of this definition.	32

<i>law enforcement officer</i> means:	1
(a) an officer or employee of a law enforcement agency or a person who is seconded to such an agency, including (but not limited to) a police officer, or	2 3 4
(b) a member of a police force or police service (however described) of another State, a Territory or another country.	5 6
184 Lists of search friends (cf Police Powers (Internally Concealed Drugs) Act 2001, s 40)	7 8
(1) The Minister must, so far as is reasonably practicable, establish, and update at such intervals as the Minister thinks appropriate, a list, in relation to a part of the State where there are likely to be persons detained under this Division of the names of persons (not being police officers) who:	9 10 11 12 13
(a) are suitable to help Aboriginal persons or Torres Strait Islanders so detained, and	14 15
(b) are willing to give such help in that part of the State.	16
(2) In establishing and maintaining a list in relation to a part of the State, the Minister must from time to time consult with any Aboriginal legal aid organisation providing legal assistance to Aboriginal persons or Torres Strait Islanders in that part of the State.	17 18 19 20
(3) The Minister may, in writing, delegate to a person employed in the Attorney General's Department all or any of the functions of the Minister under this section.	21 22 23

Part 12 Powers relating to vehicles and traffic 1

Note. For particular police powers relating to traffic accidents, speed measuring devices, forfeiture of prohibited speed measuring evasion articles, random breath testing and other testing, and other traffic-related matters, see the *Road Transport (Safety and Traffic Management) Act 1999*. For particular police powers relating to production of driver licences and disclosure of identity, suspension of licences and seizure of motor vehicles, see the *Road Transport (General) Act 1999*. 2
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Division 1 Regulation of traffic 7

185 Police may give reasonable directions for traffic regulation 8

A police officer may give reasonable directions for the safe and efficient regulation of traffic to any person driving a motor vehicle or riding a motorcycle on or near a road or road related area. 9
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Note. The *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* makes it an offence to fail to obey a reasonable direction for the safe and efficient regulation of traffic given to a person by a police officer. 12
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186 Police may temporarily close road or road related area to traffic (cf Road Transport (Safety and Traffic Management) Act 1999, s 74) 15
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(1) A police officer may: 17

(a) close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose, and 18
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(b) prevent the traffic of any vehicles, persons or animals in or on any road or road related area closed to traffic under paragraph (a) or under the authority of any other Act. 21
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(2) A person must not, without reasonable excuse, fail or refuse to comply with any direction of a police officer given in pursuance of a power conferred by this section. 24
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Maximum penalty: 20 penalty units. 27

Division 2	Other police powers relating to vehicles	1
187	Use of tyre deflation devices in police pursuits (cf Road Transport (General) Act 1999, s 51)	2 3
(1)	The Commissioner may authorise the use by police officers of a device (a <i>tyre deflation device</i>) that causes the deflation of the tyres of a vehicle to enable police to stop or assist in the stopping of a vehicle in connection with the pursuit of the vehicle by police.	4 5 6 7
(2)	Provision made by or under an Act that would operate to prohibit or restrict the placement or deployment on or near a road or road related area of a tyre deflation device does not apply to the placing or deploying of a tyre deflation device by a police officer acting in the exercise of his or her duties.	8 9 10 11 12
188	Power of entry for tracing stolen motor vehicles or trailers or their parts (cf Road Transport (General) Act 1999, s 50)	13 14
(1)	A police officer authorised to do so by the Commissioner may:	15
(a)	enter, at any time, any premises or place on which the business of carrying out repairs, resulting from accidents, to damaged motor vehicles or trailers is ordinarily carried on, and	16 17 18
(b)	inspect any motor vehicle or trailer (or part of a motor vehicle or trailer) that is found by the officer in or on those premises or that place for the purpose of ascertaining whether or not it is a stolen motor vehicle or trailer or part.	19 20 21 22
(2)	A person must not wilfully delay or obstruct a police officer in the exercise of the authority conferred by subsection (1).	23 24
	Maximum penalty: 20 penalty units.	25
Division 3	Powers to prevent intoxicated drivers from driving	26
189	Power to prevent driving by persons who are under the influence of alcohol or other drugs (cf Road Transport (Safety and Traffic Management) Act 1999, s 30)	27 28 29
(1)	If a police officer is of the opinion that a person who is driving (or about to drive) a motor vehicle is under the influence of alcohol or any other drug, or a combination of drugs, the police officer may:	30 31 32

(a)	prohibit the person from driving the vehicle while the person is under the influence of alcohol or that other drug or a combination of drugs, and	1 2 3
(b)	require the person to immediately hand over all ignition or other keys of the motor vehicle in the person's actual possession:	4 5 6
	(i) to the police officer, or	7
	(ii) to another person in the company of the person who the police officer is satisfied is responsible and capable of exercising proper control of the motor vehicle, and	8 9 10
(c)	take such other steps as, in the opinion of the police officer, are necessary in order:	11 12
	(i) to immobilise the motor vehicle, or	13
	(ii) to remove the motor vehicle to a place of safety and detain it at that place.	14 15
(2)	If the police officer is of the opinion that the person concerned is under the influence of alcohol, the person is entitled to request that the person undergo a breath test in order to determine whether or not the person is under the influence of alcohol. If such a request is made, the police officer may not take any action under subsection (1) until the person undergoes the breath test.	16 17 18 19 20 21
(3)	Despite subsection (2), a police officer may take action under subsection (1) if the police officer reasonably suspects that the person is likely to abscond before undergoing the breath test.	22 23 24
(4)	Subsection (1) does not authorise the confiscation of any keys, or the immobilisation, removal or detention of any motor vehicle, for any period that is longer than necessary in the circumstances and in the interest of the person driving (or about to drive) or of any other person or of the public.	25 26 27 28 29
190	Detention of keys or vehicles may be continued (cf Road Transport (Safety and Traffic Management) Act 1999, s 30)	30 31
(1)	It is lawful for a police officer to retain any keys that are confiscated under section 189, or for any motor vehicle to be immobilised or detained under that section, until such time as:	32 33 34
(a)	the return of the keys or the motor vehicle is requested by a person, and	35 36

(b)	the police officer to whom the request is made:	1
(i)	is satisfied that the person making the request is capable of exercising proper control of the motor vehicle, or	2
(ii)	is informed by a medical practitioner (not being the person making the request) that the person making the request is not under the influence of alcohol or any other drug.	3
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(2)	However, the person making the request is entitled to possession of the keys or motor vehicle concerned only if the police officer is satisfied that the person is entitled to lawful possession of the motor vehicle.	8
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(3)	If the keys or motor vehicle are not returned within 24 hours after such a request is made, the person may apply to a Local Court for an order for the keys or motor vehicle to be returned to the person.	11
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		13
191	Offence to contravene prohibition or requirement (cf Road Transport (Safety and Traffic Management) Act 1999, s 30)	14
		15
(1)	A person must not:	16
(a)	fail or refuse to comply with any prohibition or requirement made by a police officer under this Division, or	17
		18
(b)	attempt in any manner to obstruct a police officer in the exercise of any power conferred on the police officer under this Division.	19
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		21
	Maximum penalty: 10 penalty units.	22
(2)	A court may find a person guilty of an offence under this section only if the court is satisfied that the police officer had reasonable grounds for believing that, in the circumstances, the action taken by the police officer was necessary in the interests of the person or of any other person or of the public.	23
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192	Expenses incurred in connection with Division (cf Road Transport (Safety and Traffic Management) Act 1999, s 30)	28
		29
	Any expenses incurred in connection with the immobilisation, removal or detention of a motor vehicle under this Division may be recovered from the person who was driving (or about to drive) the vehicle, or from the owner of the vehicle, as a debt in a court of competent jurisdiction.	30
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Part 13	Use of dogs to detect firearms and explosives	1
193	Definitions (cf Firearms Act 1996, s 72A)	2
	In this Part:	3
	<i>general firearms or explosives detection</i> is the detection or tracking of firearms or explosives, including live or spent ammunition or any residue from a firearm or explosive, in a public place (including in any vehicle in a public place or in the possession of a person who is in a public place).	4 5 6 7 8
	<i>relevant firearms or explosives offence</i> means an offence under the <i>Firearms Act 1996</i> or any other Act involving the possession or use of a firearm or explosive.	9 10 11
194	Part does not confer power of entry or detention (cf Firearms Act 1996, s 72B)	12 13
	Nothing in this Part confers on a police officer a power:	14
	(a) to enter any premises that the officer is not otherwise authorised to enter, or	15 16
	(b) to detain a person whom the officer is not otherwise authorised to detain.	17 18
195	General authority to use dogs for detecting firearms or explosives (cf Firearms Act 1996, s 72C)	19 20
	(1) If a police officer is authorised to search a person for the purpose of detecting a relevant firearms or explosives offence, the officer is entitled to use a dog for that purpose.	21 22 23
	(2) A police officer is, for the purpose of detecting a relevant firearms or explosives offence, entitled to be accompanied by a dog under the officer's control if the officer is entitled to enter, or be in or on, particular premises in the exercise of the officer's functions.	24 25 26 27
	(3) Neither the State nor a police officer is liable to any action, liability, claim or demand merely because a dog entered, or was in or on, premises as provided by subsection (2).	28 29 30

196	General firearms or explosives detection using dogs (cf Firearms Act 1996, s 72D)	1
		2
(1)	A police officer is authorised to use a dog to carry out general firearms or explosives detection without a warrant.	3
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(2)	A police officer carrying out general firearms or explosives detection under this section is to take all reasonable precautions to prevent the dog touching a person.	5
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		7
(3)	A police officer is required to keep a dog under control when the officer is using the dog to carry out general firearms or explosives detection under this section.	8
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(4)	The provisions of this section do not affect the search of a person whom a police officer reasonably suspects is committing a relevant firearms or explosives offence.	11
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Part 14 Powers to give directions

Note. Safeguards relating to the exercise of the power to give a direction are set out in Part 15.

197 Power to give reasonable directions in public places (cf Summary Offences Act 1988, s 28F)

- (1) A police officer may give a direction to a person in a public place if the police officer believes on reasonable grounds that the person's behaviour or presence in the place (referred to in this Part as *relevant conduct*):
- (a) is obstructing another person or persons in traffic, or
 - (b) constitutes harassment or intimidation of another person or persons, or
 - (c) is causing or likely to cause fear to another person or persons, so long as the relevant conduct would be such as to cause fear to a person of reasonable firmness, or
 - (d) is for the purpose of unlawfully supplying, or intending to unlawfully supply, or soliciting another person or persons to unlawfully supply, any prohibited drug, or
 - (e) is for the purpose of obtaining, procuring or purchasing any prohibited drug that it would be unlawful for the person to possess.
- (2) A police officer may give a direction under this section to persons comprising a group.
- (3) The other person or persons referred to in subsection (1) need not be in the public place but must be near that place at the time the relevant conduct is being engaged in.
- (4) For the purposes of subsection (1) (c), no person of reasonable firmness need actually be, or be likely to be, present at the scene.

198 Requirements relating to direction (cf Summary Offences Act 1988, s 28F)

- (1) A direction given by a police officer under this Part must be reasonable in the circumstances for the purpose of:
- (a) reducing or eliminating the obstruction, harassment, intimidation or fear, or
 - (b) stopping the supply, or soliciting to supply, of the prohibited drug, or

(c)	stopping the obtaining, procuring or purchasing of the prohibited drug.	1 2
(2)	If a police officer has complied with this section and section 201 in giving a direction to a person and the person refuses or fails to comply with the direction, the police officer may again give the direction and, in that case, must again warn the person that failure or refusal to comply with the direction may be an offence.	3 4 5 6 7
(3)	In the case of a direction given under this Part to a group of persons, the police officer is not required to repeat the direction, or to repeat the information and warning referred to in this section and section 201, to each person in the group.	8 9 10 11
(4)	However, just because the police officer is not required to repeat any such direction, information or warning does not in itself give rise to any presumption that each person in the group has received the direction, information or warning.	12 13 14 15
199	Failure to comply with direction (cf Summary Offences Act 1988, s 28F)	16
(1)	A person must not, without reasonable excuse, refuse or fail to comply with a direction given in accordance with this Part.	17 18
	Maximum penalty: 2 penalty units.	19
(2)	A person is not guilty of an offence under this section unless it is established that the person persisted, after the direction concerned was given, to engage in the relevant conduct or any other relevant conduct.	20 21 22
200	Limitation on exercise of police powers (cf Summary Offences Act 1988, s 28G)	23 24
	This Part does not authorise a police officer to give directions in relation to:	25 26
(a)	an industrial dispute, or	27
(b)	an apparently genuine demonstration or protest, or	28
(c)	a procession, or	29
(d)	an organised assembly.	30

Part 15 Safeguards relating to powers

Note.

1 For safeguards relating to property seized or confiscated by police, see Part 17.

2 For other requirements relating to personal searches, see Part 4.

201 Supplying police officer's details and giving warnings (cf Crimes Act 1900, s 563, Police Powers (Vehicles) Act 1998, s 6)

(1) A police officer must, before or at the time of exercising a power referred to in subsection (3) (other than subsection (3) (g), (i) or (j)), or as soon as is reasonably practicable after exercising the power, provide the person subject to the exercise of the power with the following:

- (a) evidence that the police officer is a police officer (unless the police officer is in uniform),
- (b) the name of the police officer and his or her place of duty,
- (c) the reason for the exercise of the power,
- (d) a warning that failure or refusal to comply with a request of the police officer, in the exercise of the power, may be an offence.

(2) A police officer must comply with subsection (1) before exercising a power referred to in subsection (3) (g), (i) or (j).

(3) This section applies to the exercise of the following powers (whether or not conferred by or under this Act):

- (a) a power to search or arrest a person,
- (b) a power to search a vehicle, vessel or aircraft,
- (c) a power to enter premises (not being a public place),
- (d) a power to search premises (not being a public place),
- (e) a power to seize any property,
- (f) a power to stop or detain a person (other than a power to detain a person under Part 16) or a vehicle, vessel or aircraft,
- (g) a power to request a person to disclose his or her identity or the identity of another person,
- (h) a power to establish a crime scene at premises (not being a public place),
- (i) a power to give a direction to a person,

(j)	a power under section 26 to request a person to submit to a frisk search or to produce a dangerous implement or a metallic object.	1 2 3
(4)	If 2 or more police officers are exercising a power to search or enter premises or to establish a crime scene, only one officer present is required to comply with this section.	4 5 6
(5)	However, if a person asks another police officer present for information as to the name of the police officer and his or her place of duty, the police officer must give to the person the information requested.	7 8 9 10
202	When arrest safeguards not required	11
	A police officer exercising a power to arrest a person is not required to comply with section 201 if the police officer believes on reasonable grounds that it is not reasonably practicable to do so because of the seriousness and urgency of the circumstances.	12 13 14 15
203	When search safeguards not required	16
(1)	A police officer exercising a power to search premises is not required to comply with section 201 if the police officer believes on reasonable grounds that immediate entry is required to ensure the safety of any person or to ensure that the effective execution of a warrant is not frustrated.	17 18 19 20 21
(2)	Section 201 does not affect the operation of section 68 (2).	22
204	Detention period for search limited	23
	A police officer who detains a vehicle, vessel or aircraft for a search must not detain the vehicle, vessel or aircraft any longer than is reasonably necessary for the purpose.	24 25 26

Part 16 Powers relating to intoxicated persons

205	Definitions (cf Intoxicated Persons Act 1979, s 3)	2
	In this Part:	3
	<i>authorised place of detention</i> means:	4
	(a) a police station, or	5
	(b) a detention centre within the meaning of the <i>Children (Detention Centres) Act 1987</i> approved for the time being by the Minister for the purposes of this Part as an authorised place of detention.	6 7 8 9
	<i>detention officer</i> means a police officer, a correctional officer (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i>) or a person in charge of or employed in a detention centre (within the meaning of the <i>Children (Detention Centres) Act 1987</i>).	10 11 12 13
	<i>intoxicated person</i> means a person who appears to be seriously affected by alcohol or another drug or a combination of drugs.	14 15
	<i>public place</i> includes a school.	16
	<i>responsible person</i> includes any person who is capable of taking care of an intoxicated person including:	17 18
	(a) a friend or family member, or	19
	(b) an official or member of staff of a government or non-government organisation or facility providing welfare or alcohol or other drug rehabilitation services.	20 21 22
206	Detention of intoxicated persons (cf Intoxicated Persons Act 1979, s 5)	23
	(1) A police officer may detain an intoxicated person found in a public place who is:	24 25
	(a) behaving in a disorderly manner or in a manner likely to cause injury to the person or another person or damage to property, or	26 27
	(b) in need of physical protection because the person is intoxicated.	28 29
	(2) A police officer is not to detain a person under this section because of behaviour that constitutes an offence under any law.	30 31

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|------------|---|----------------------|
| (3) | An intoxicated person detained by a police officer under this Part is to be taken to, and released into the care of, a responsible person willing immediately to undertake the care of the intoxicated person. | 1
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| (4) | An intoxicated person detained by a police officer under this Part may be taken to and detained in an authorised place of detention if: | 4
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| (a) | it is necessary to do so temporarily for the purpose of finding a responsible person willing to undertake the care of the intoxicated person, or | 6
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| (b) | a responsible person cannot be found to take care of the intoxicated person or the intoxicated person is not willing to be released into the care of a responsible person and it is impracticable to take the intoxicated person home, or | 9
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| (c) | the intoxicated person is behaving or is likely to behave so violently that a responsible person would not be capable of taking care of and controlling the intoxicated person. | 13
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| (5) | An intoxicated person detained under this Part may be detained under such reasonable restraint as is necessary to protect the intoxicated person and other persons from injury and property from damage. | 16
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| (6) | This section does not authorise a responsible person into whose care an intoxicated person is released to detain the intoxicated person. | 19
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| 207 | Detention of persons in authorised places of detention (cf Intoxicated Persons Act 1979, s 5) | 21
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| (1) | An intoxicated person who is detained in an authorised place of detention under this Part may be detained there by any detention officer. | 23
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| (2) | An intoxicated person who is detained in an authorised place of detention under this Part: | 26
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| (a) | must be given a reasonable opportunity by the person in charge of that place to contact a responsible person, and | 28
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| (b) | must, as far as is reasonably practicable, be kept separately from any person detained at that place in connection with the commission or alleged commission of an offence, and | 30
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| (c) | if the intoxicated person is apparently under the age of 18 years—must, as far as is reasonably practicable, be kept separately from any person over that age detained at that place, and | 33
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(d)	must not be detained in a cell at that place unless it is necessary to do so or unless it is impracticable to detain the person elsewhere at that place, and	1 2 3
(e)	must be provided with necessary food, drink, bedding and blankets appropriate to the person's needs, and	4 5
(f)	must be released as soon as the person ceases to be an intoxicated person.	6 7
208	Searching detained persons (cf Intoxicated Persons Act 1979, s 6)	8
(1)	A police officer or other detention officer by whom an intoxicated person is detained under this Part may search the intoxicated person and may take possession of any personal belongings found in the person's possession.	9 10 11 12
(2)	A person is entitled to the return of the personal belongings taken from the person under subsection (1) when the person ceases to be detained under this Part.	13 14 15
209	Records (cf Intoxicated Persons Act 1979, s 7)	16
(1)	It is the duty of:	17
(a)	any police officer who detains an intoxicated person under this Part and takes the person to an authorised place of detention, and	18 19 20
(b)	the person in charge of an authorised place of detention where an intoxicated person is detained (or a person authorised to do so by that person in charge), and	21 22 23
(c)	a person who, under this Part, searches a detained person, to make, in accordance with the regulations, the record approved by the Minister with respect to the detained person and to keep it for a period of 3 years.	24 25 26 27
(2)	A person who has the custody of a prescribed record made under this section must, when required to do so by a person authorised by the Minister for the purposes of this subsection, make it available for inspection by that person.	28 29 30 31

210	Police officers and others not liable for certain acts or omissions	1
	(cf Intoxicated Persons Act 1979, s 8)	2
	No action lies against any police officer, any detention officer or any	3
	other person in respect of anything done or omitted to be done by the	4
	police officer, detention officer or any such other person in good faith	5
	in the execution or purported execution of this Part.	6

Part 17	Property in police custody	1
Division 1	Confiscated knives and other dangerous articles and implements	2 3
211	Application of Division (cf Summary Offences Act 1988, s 28B)	4
(1)	This Division applies to the following:	5
(a)	a dangerous article seized under this Act,	6
(b)	a dangerous implement confiscated under section 28.	7
(2)	If provision is made by or under any other Act for the seizure or confiscation of a dangerous article or a dangerous implement to which this Division applies, the article or implement is to be dealt with as so provided and the provisions of this Division do not apply to the confiscation.	8 9 10 11 12
212	Application for return of seized dangerous articles or confiscated dangerous implements (cf Summary Offences Act 1988, s 28C)	13 14
(1)	The person from whom a dangerous article or dangerous implement is seized or confiscated or its owner may, within 28 days after it is seized or confiscated, apply to the Local Area Commander of Police in the area in which it was seized or confiscated for its return.	15 16 17 18
(2)	An application for the return of the article or implement must be in writing and state why the article or implement should in all the circumstances be returned.	19 20 21
(3)	If the person seeking the return of the article or implement is under the age of 18 years, the application for its return may be made only by a parent or guardian of the person, or a person who has lawful care or custody of the person, on his or her behalf.	22 23 24 25
(4)	The Local Area Commander is not required to return an article or implement if:	26 27
(a)	proceedings have been commenced against the person in respect of the article or implement and the proceedings have not been withdrawn or finally determined by the person's having been found not guilty of the offence, or	28 29 30 31

(b)	the person making the application, or on whose behalf an application is made, is the subject of a firearms prohibition order under the <i>Firearms Act 1996</i> , or	1 2 3
(c)	possession of the article or implement would otherwise constitute an offence.	4 5
213	Appeals to Local Court against refusals to return seized dangerous articles or confiscated dangerous implements (cf Summary Offences Act 1988, s 28D)	6 7 8
(1)	If the Local Area Commander of Police fails or refuses to return a seized dangerous article or confiscated dangerous implement at the expiration of 28 days after it is seized or confiscated to a person who has made an application for its return under this Division, the person may appeal against the failure or refusal to a Local Court within a further 28 days.	9 10 11 12 13 14
(2)	On hearing such an appeal, a Local Court may order that the article or implement:	15 16
(a)	be forfeited to the Crown, or	17
(b)	be returned to the applicant or some other appropriate person.	18
(3)	The Local Court may not order that the article or implement be returned to the person if proceedings have been commenced against a person in respect of the article or implement and the proceedings have not been withdrawn or finally determined by the person's having been found not guilty of the offence.	19 20 21 22 23
214	Forfeiture of seized dangerous articles and confiscated dangerous implements (cf Summary Offences Act 1988, s 28E)	24 25
(1)	A seized dangerous article or confiscated dangerous implement is forfeited to the Crown:	26 27
(a)	if an application for the return of the article or implement is not made within 28 days after it is seized or confiscated—at the expiration of that period, or	28 29 30
(b)	in a case where such an application is made within that period and the article or implement is not returned within that period:	31 32
(i)	if an appeal under this Division is not made within the period permitted by this Division—at the expiration of that period, or	33 34 35

(ii)	if an appeal under this Division is made within the period permitted by this Division—when an order made by a Local Court that the article or implement be forfeited to the Crown takes effect.	1 2 3 4
(2)	The Local Area Commander of Police (or such other person as the Commissioner may direct) may dispose of an article or implement forfeited to the Crown under this section in accordance with the directions of the Commissioner.	5 6 7 8
(3)	In this section, a reference to the disposal of an article or implement includes a reference to its destruction.	9 10
(4)	The proceeds of any sale of an article or implement disposed of under this section are to be paid to the Treasurer for payment into the Consolidated Fund.	11 12 13
Division 2	Other property in police custody	14
215	Definitions	15
	In this Division:	16
	<i>livestock</i> means animals (including birds and fish).	17
	<i>ownership</i> of livestock includes any form of lawful entitlement.	18
216	Application to property	19
(1)	This Division applies to the following property:	20
(a)	property that is in the custody of a police officer or member of NSW Police in connection with an offence, whether or not proceedings for the offence have been commenced,	21 22 23
(b)	property that is lawfully in the custody of a police officer or member of NSW Police other than in connection with an offence.	24 25 26
(2)	However, this Division does not apply to the following property:	27
(a)	a dangerous article or dangerous implement to which Division 1 applies,	28 29
(b)	livestock to which section 19 of the <i>Stock Diseases Act 1923</i> applies.	30 31

217	Right to inspect seized documents	1
	Unless a Magistrate otherwise orders, a police officer who, in exercising a function conferred by or under this Act, seizes a document must allow a person who would be entitled to the document:	2
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	(a) to inspect it at any reasonable times and from time to time, and	6
	(b) to take extracts from or make copies of it.	7
218	Return of seized things	8
	(1) A police officer who, in exercising a function conferred by or under this Act, seizes a thing or has custody of other property to which this Division applies must return the thing to the owner or person who had lawful possession of the thing before it was seized or came into custody if the officer is satisfied that:	9
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	(a) its retention as evidence is not required, and	14
	(b) it is lawful for the person to have possession of the thing.	15
	(2) This section is subject to any order made under section 219.	16
219	Disposal of property on application to court	17
	(1) A court may, on application by any person, make an order that property to which this Division applies:	18
		19
	(a) be delivered to the person who appears to be lawfully entitled to the property, or	20
		21
	(b) if that person cannot be ascertained, be dealt with as the court thinks fit.	22
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	(2) In determining an application the court may do any one or more of the following things:	24
		25
	(a) adjust rights to property as between people who appear to be lawfully entitled to the same property or the same or different parts of property,	26
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	(b) make a finding or order as to the ownership and delivery of property,	29
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	(c) make a finding or order as to the liability for and payment of expenses incurred in keeping property in police custody,	31
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(d)	order, if the person who is lawfully entitled to the property cannot be ascertained, that the property be forfeited to the Crown,	1 2 3
(e)	make any necessary incidental or ancillary orders.	4
(3)	Property ordered to be forfeited to the Crown:	5
(a)	in the case of money, is to be paid to the Treasurer for payment into the Consolidated Fund, or	6 7
(b)	in any other case, may be sold by or on behalf of the Commissioner at public auction and the proceeds of sale are to be paid to the Treasurer for payment into the Consolidated Fund.	8 9 10 11
(4)	If the property is not money or is not fit or suitable for sale, or fails to sell at public auction, it is to be disposed of in accordance with the directions of the Commissioner.	12 13 14
220	Disposal of property connected with an offence after determination of proceedings	15 16
(1)	Property that is in the custody of a police officer or member of NSW Police in connection with an offence and that is not delivered to the person lawfully entitled to it (by virtue of section 218, an order of a court under this Division or otherwise) within 1 month after determination of proceedings against a person for an offence connected with the property, or within 1 month after the police officer determines that it is no longer required for use as evidence, is to be dealt with in accordance with subsection (2).	17 18 19 20 21 22 23 24
(2)	The property:	25
(a)	in the case of money, is to be paid to the Treasurer for payment into the Consolidated Fund, or	26 27
(b)	in any other case, may be sold by or on behalf of the Commissioner at public auction and the proceeds of sale are to be paid to the Treasurer for payment into the Consolidated Fund.	28 29 30 31
(3)	If the property is not money or is not fit or suitable for sale, or fails to sell at public auction, it is to be disposed of in accordance with the directions of the Commissioner.	32 33 34

221	Disposal of unclaimed property not connected with an offence	1
(1)	Property that is lawfully in the custody of a police officer or a member of NSW Police other than in connection with an offence and that is not delivered to the person lawfully entitled to it (by virtue of section 218, an order of a court under this Division or otherwise) may be dealt with in accordance with this section.	2 3 4 5 6
(2)	The Commissioner may use any such property for the purposes of an integrity testing program conducted under section 207A of the <i>Police Act 1990</i> .	7 8 9
(3)	The property:	10
(a)	in the case of money, is to be paid to the Treasurer for payment into the Consolidated Fund, or	11 12
(b)	in any other case, may be sold at public auction by the Commissioner and the proceeds of sale are to be paid to the Treasurer for payment into the Consolidated Fund.	13 14 15
(4)	If the property is not money or is not fit or suitable for sale, or fails to sell at public auction, it is to be disposed of in accordance with the directions of the Commissioner.	16 17 18
222	Procedure where no dispute as to ownership of livestock and owner known (cf Criminal Procedure Act 1986, s 140)	19 20
(1)	A police officer may deliver livestock at any time before the determination of proceedings against a person for an offence concerning the livestock to a person who the officer believes on reasonable grounds is the owner of the livestock if there does not appear to the officer to be any dispute as to ownership of the livestock.	21 22 23 24 25
(2)	Livestock is not to be delivered until a suitable record of the livestock has been made for evidentiary purposes. The record is to include a valuation of the livestock made by a competent valuer.	26 27 28
(3)	Expenses incurred in keeping the livestock in police custody, in making the record and in obtaining the valuation under subsection (2) are to be borne by the Commissioner.	29 30 31
223	Procedure where no dispute as to ownership of livestock but owner not known (cf Criminal Procedure Act 1986, s 141)	32 33
(1)	A police officer may apply to a court at any time before the determination of proceedings against a person for an offence concerning livestock for an order to sell the livestock at public auction	34 35 36

if, after making reasonable inquiries, there does not appear to the officer to be any dispute as to the ownership of the livestock but the officer does not know who or where the owner is.	1 2 3
(2) The court may make an order for the sale of the livestock at public auction but must not make such an order unless it is satisfied that 28 days notice of the intention to make the application for the order has been given:	4 5 6 7
(a) to any person who, in the court's opinion, may be an owner of the livestock, and	8 9
(b) in a newspaper circulating throughout the State.	10
(3) In making an order for the sale of livestock, the court must specify the amount that is to be deducted from the proceeds of sale and paid to the Commissioner in reimbursement of the expenses incurred by the Commissioner in keeping the livestock in police custody. Expenses incurred in keeping the livestock in police custody for the first 28 days are to be borne by the Commissioner.	11 12 13 14 15 16
(4) Livestock must not be sold following an order of the court until a suitable record of the livestock has been made for evidentiary purposes. The record need not include a valuation of the livestock.	17 18 19
(5) The proceeds of sale of the livestock (after deducting, to the extent of the funds available, and paying to the Commissioner any amount specified by the court) together with a copy of the record made under this section are to be forwarded to the Treasurer and the proceeds are to be paid into the Consolidated Fund.	20 21 22 23 24
224 Procedure if there is a dispute as to ownership of livestock (cf Criminal Procedure Act 1986, s 142)	25 26
(1) A police officer may apply to a court at any time before the determination of proceedings against a person for an offence concerning livestock for an order to sell the livestock at public auction if there is a dispute as to the ownership of livestock and:	27 28 29 30
(a) no party to the dispute undertakes to pay the expenses of keeping the livestock in police custody, or	31 32
(b) a party who has given such an undertaking fails to comply with the undertaking.	33 34

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- (2) The court may make an order for the sale of the livestock at public auction or it may make an order that one or more of the parties disputing ownership pay the expenses of keeping the livestock in police custody in such proportions as it determines. 1
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- (3) The court must not make an order for the sale of the livestock at public auction unless it is satisfied that 28 days notice of the intention to make the application for the order has been given: 5
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- (a) to any person who, in the court's opinion, may be an owner of the livestock, and 8
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- (b) in a newspaper circulating throughout the State. 10
- (4) In making an order for the sale of the livestock, the court must specify the amount that is to be deducted from the proceeds of the sale and paid to the Commissioner in reimbursement of the expenses incurred by the Commissioner in keeping the livestock in police custody. 11
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- (5) Livestock must not be sold following an order of the court until a suitable record of the livestock has been made for evidentiary purposes. The record need not include a valuation of the livestock. 15
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- (6) The owner of the livestock is (except insofar as a court otherwise determines) entitled to recover, jointly or severally, from the other parties to the dispute the expenses incurred by the owner in keeping the livestock in police custody. 18
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- (7) The proceeds of the sale of the livestock (after deducting, to the extent of the funds available, and paying to the Commissioner any amount specified by the court) together with a copy of the record made under this section are to be forwarded to the Treasurer to be paid into the Consolidated Fund. 22
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- 225 Disposition of benefit derived from livestock** (cf Criminal Procedure Act 1986, s 143) 27
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- Any income or benefit derived from livestock while in police custody (such as offspring born during custody or, in the case of poultry, eggs) is to be held or applied on behalf of the owner of the livestock. 29
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226	Notification of right to recover proceeds of sale (cf Criminal Procedure Act 1986, s 144)	1
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	If, at the time at which livestock are sold in accordance with section 223:	3
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	(a) the parties disputing ownership of the livestock have not resolved their dispute, and	5
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	(b) a court has not determined who the owner of the livestock is,	7
	a police officer is required to notify each such party of the rights of the owner under section 225.	8
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227	Livestock provisions in addition to other provisions	10
	Sections 222–226 are in addition to the other provisions of this Division relating to property.	11
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228	Application to Treasurer for recovery of money or proceeds of sale	13
	A person who is lawfully entitled to any property that has been dealt with in accordance with section 219, 220, 221 or 222–226 may recover from the Treasurer the money or proceeds of sale held by the Treasurer. This Act authorises the Treasurer to pay the amount out of the Consolidated Fund (which is appropriated to the necessary extent).	14
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229	Courts having jurisdiction under this Division	19
	(1) The court to which an application under this Division may be made is:	20
	(a) a Local Court for the district in which the property is held, if the estimated value of the property (or the amount of the money) does not exceed \$40,000, or	21
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		23
	(b) the District Court, if the estimated value of the property (or the amount of the money) exceeds \$40,000 but does not exceed \$250,000, or	24
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		26
	(c) the Supreme Court, if the estimated value of the property (or the amount of the money) exceeds \$250,000.	27
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	(2) Despite subsection (1), a court that is dealing with an offence may deal with an application relating to property connected with that offence even though the value of the property exceeds or is less than the amount specified by subsection (1) in relation to that court.	29
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Part 18 Use of force

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230 Use of force generally by police officers

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It is lawful for a police officer exercising a function under this Act or
any other Act or law in relation to an individual or a thing, and anyone
helping the police officer, to use such force as is reasonably necessary
to exercise the function.

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231 Use of force in making an arrest

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A police officer or other person who exercises a power to arrest
another person may use such force as is reasonably necessary to make
the arrest or to prevent the escape of the person after arrest.

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Part 19 Miscellaneous

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232 Protection of police acting in execution of warrant (cf Police Act 1990, s 215)	2 3
(1) If any proceedings (whether criminal or not) are brought against any police officer for anything done or purportedly done by the police officer in execution of a warrant (whether issued under this or any other Act or law), or a notice to produce documents issued under this Act, the police officer is not to be convicted or held liable merely because:	4 5 6 7 8 9
(a) there was an irregularity or defect in the issuing of the warrant or notice, or	10 11
(b) the person who issued the warrant or notice lacked the jurisdiction to do so.	12 13
(2) In any such proceedings, the court must acquit the police officer or dismiss the proceedings if the police officer:	14 15
(a) produces the warrant or notice, and	16
(b) proves that the signature on the warrant or notice is that of the person whose signature it purports to be, and	17 18
(c) proves that such a person has the reputation of being, and acts as, a person who has the jurisdiction to issue the warrant or notice, and	19 20 21
(d) the act complained of was done in execution of the warrant or notice.	22 23
233 Admissibility of evidence of searches (cf Summary Offences Act 1988, s 28H)	24
Evidence of a thing discovered during or as a result of a search carried out in accordance with this Act is not inadmissible merely because the thing is a dangerous article or dangerous implement of a different nature from that referred to in the reason given for the search.	25 26 27 28
234 Proceedings for offences	29
Proceedings for an offence against this Act or the regulations are to be dealt with summarily by a Local Court.	30 31

235	Penalty notices	1
(1)	A police officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.	2 3 4 5
(2)	A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.	6 7 8 9 10
(3)	A penalty notice may be served personally or by post.	11
(4)	If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	12 13 14
(5)	Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	15 16 17 18
(6)	The regulations may:	19
(a)	prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and	20 21 22
(b)	prescribe the amount of penalty payable for the offence if dealt with under this section, and	23 24
(c)	prescribe different amounts of penalties for different offences or classes of offences.	25 26
(7)	The amount of penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.	27 28 29
(8)	This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.	30 31 32
236	Onus of proof of reasonable excuse	33
	The onus of proof of reasonable excuse in proceedings for an offence against this Act or the regulations lies on the person accused of the offence.	34 35 36

237	Commissioner's instructions	1
(1)	The instructions to members of NSW Police issued under section 8 (4) of the <i>Police Act 1990</i> may include instructions and guidelines with respect to the exercise by police officers, and other members of NSW Police, of functions conferred by or under this Act.	2 3 4 5
(2)	The Commissioner may not issue an instruction or guideline under the <i>Police Act 1990</i> that is inconsistent with this Act and any instruction or guideline is, to the extent to which it is inconsistent with this Act, of no effect.	6 7 8 9
238	Regulations	10
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	11 12 13 14
(2)	A regulation may create an offence punishable by a penalty not exceeding 20 penalty units or, in the case of a regulation made under Division 1 or 3 of Part 11, 50 penalty units.	15 16 17
239	Repeals	18
	The Acts set out in Schedule 3 are repealed.	19
240	Amendment of other Acts and instruments	20
	Schedule 4 has effect.	21
241	Savings and transitional provisions	22
	Schedule 5 has effect.	23
242	Monitoring of operation of certain provisions of Act by Ombudsman	24
(1)	For the period of 2 years from the date of the commencement of this section, the Ombudsman is to keep under scrutiny the exercise of the functions conferred on police officers under Division 2 of Part 4, Division 3 of Part 5 and Part 7.	25 26 27 28
(2)	For that purpose, the Ombudsman may require the Commissioner to provide information about the exercise of those functions.	29 30

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- (3) The Ombudsman must, as soon as practicable after the expiration of that 2-year period, prepare a report of the Ombudsman's work and activities under this section and furnish a copy of the report to the Attorney General and the Minister for Police and the Commissioner. 1
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- (4) The Attorney General is to lay (or cause to be laid) a copy of the report before both Houses of Parliament as soon as practicable after the Attorney General receives the report. 5
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- (5) If a House of Parliament is not sitting when the Attorney General seeks to lay a report before it, the Attorney General may present copies of the report to the Clerk of the House concerned. 8
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- (6) The report: 11
- (a) is, on presentation and for all purposes, taken to have been laid before the House, and 12
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- (b) may be printed by authority of the Clerk of the House, and 14
- (c) if so printed, is for all purposes taken to be a document published by or under the authority of the House, and 15
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- (d) is to be recorded: 17
- (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and 18
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- (ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly, 20
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- on the first sitting day of the House after receipt of the report by the Clerk. 22
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- 243 Review of Act** 24
- (1) The Attorney General and the Minister for Police are to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. 25
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- (2) The review is to be undertaken as soon as possible after the period of 3 years from the date of assent to this Act. 29
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- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years. 31
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Schedule 1 Acts not affected by this Act	1
	(Section 5 (1)) 2
<i>Bail Act 1978 No 161</i>	3
<i>Casino Control Act 1992 No 15</i>	4
<i>Children and Young Persons (Care and Protection) Act 1998 No 157</i>	5
<i>Children (Care and Protection) Act 1987 No 54</i>	6
<i>Children (Criminal Proceedings) Act 1987 No 55</i>	7
<i>Children (Protection and Parental Responsibility) Act 1997 No 78</i>	8
<i>Crimes Act 1900 No 40</i>	9
<i>Crimes (Administration of Sentences) Act 1999 No 93</i>	10
<i>Crimes (Forensic Procedures) Act 2000 No 59</i>	11
<i>Criminal Procedure Act 1986 No 209</i>	12
<i>Drug Misuse and Trafficking Act 1985 No 226</i>	13
<i>Law Enforcement and National Security (Assumed Identities) Act 1998 No 154</i>	14
<i>Law Enforcement (Controlled Operations) Act 1997 No 136</i>	15
<i>Liquor Act 1982 No 147</i>	16
<i>Listening Devices Act 1984 No 69</i>	17
<i>Mental Health Act 1990 No 9</i>	18
<i>Registered Clubs Act 1976 No 31</i>	19
<i>Road Obstructions (Special Provisions) Act 1979 No 9</i>	20
<i>Road Transport (General) Act 1999 No 18</i>	21
<i>Road Transport (Safety and Traffic Management) Act 1999 No 20</i>	22
<i>State Emergency and Rescue Management Act 1989 No 165</i>	23
<i>State Emergency Service Act 1989 No 164</i>	24
<i>Telecommunications (Interception) (New South Wales) Act 1987 No 290</i>	25
<i>Wool, Hide and Skin Dealers Act 1935 No 40</i>	26
<i>Young Offenders Act 1997 No 54</i>	27

Schedule 2	Search warrants under other Acts	1
	(Section 59 (1) (b))	2
	<i>Agricultural Industry Services Act 1998</i> , section 41	3
	<i>Animal Research Act 1985</i> , section 51	4
	<i>Apprenticeship and Traineeship Act 2001</i> , section 68	5
	<i>Casino Control Act 1992</i> , section 112	6
	<i>Charitable Fundraising Act 1991</i> , section 29	7
	<i>Children and Young Persons (Care and Protection) Act 1998</i> , section 233	8
	<i>Children (Interstate Transfer of Offenders) Act 1988</i> , section 16	9
	<i>Chiropractors Act 2001</i> , section 128	10
	<i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i> , section 55	11 12
	<i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i> , section 85	13
	<i>Confiscation of Proceeds of Crime Act 1989</i> , section 36	14
	<i>Consumer Credit Administration Act 1995</i> , section 9	15
	<i>Contaminated Land Management Act 1997</i> , section 84	16
	<i>Co-operatives Act 1992</i> , section 381	17
	<i>Criminal Assets Recovery Act 1990</i> , section 38	18
	<i>Dangerous Goods Act 1975</i> , section 42	19
	<i>Dental Practice Act 2001</i> , section 154	20
	<i>Dental Technicians Registration Act 1975</i> , section 25	21
	<i>Dentists Act 1989</i> , section 59	22
	<i>Disorderly Houses Act 1943</i> , section 13	23
	<i>Electricity Safety Act 1945</i> , sections 21I and 27I	24
	<i>Electricity Supply Act 1995</i> , section 63	25
	<i>Employment Agents Act 1996</i> , section 28	26
	<i>Entertainment Industry Act 1989</i> , section 58	27
	<i>Environmental Planning and Assessment Act 1979</i> , section 118K	28

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Schedule 2 Search warrants under other Acts

<i>Environmentally Hazardous Chemicals Act 1985</i> , section 46	1
<i>Exhibited Animals Protection Act 1986</i> , section 42	2
<i>Exotic Diseases of Animals Act 1991</i> , section 48	3
<i>Fines Act 1996</i> , section 76	4
<i>First Home Owner Grant Act 2000</i> , section 41	5
<i>Fisheries Management Act 1994</i> , sections 214 and 260	6
<i>Fitness Services (Pre-paid Fees) Act 2000</i> , section 12	7
<i>Food Act 1989</i> , section 18	8
<i>Food Production (Safety) Act 1998</i> , section 25	9
<i>Game and Feral Animal Control Act 2002</i> , section 42	10
<i>Gaming Machines Act 2001</i> , section 184	11
<i>Gas Supply Act 1996</i> , section 64	12
<i>Grain Marketing Act 1991</i> , section 87	13
<i>Guardianship Act 1987</i> , sections 12 and 102	14
<i>Health Care Complaints Act 1993</i> , section 34	15
<i>Home Building Act 1989</i> , section 126	16
<i>Independent Commission Against Corruption Act 1988</i> , section 40	17
<i>Industrial Relations Act 1996</i> , section 388	18
<i>Liquor Act 1982</i> , section 151	19
<i>Local Government Act 1993</i> , section 201	20
<i>Lotteries and Art Unions Act 1901</i> , section 21E	21
<i>Marketing of Primary Products Act 1983</i> , section 138	22
<i>Medical Practice Act 1992</i> , section 125	23
<i>Motor Dealers Act 1974</i> , section 53AA	24
<i>Motor Vehicle Repairs Act 1980</i> , section 75A	25
<i>National Parks and Wildlife Act 1974</i> , section 164	26
<i>New South Wales Crime Commission Act 1985</i> , section 11	27
<i>Non-Indigenous Animals Act 1987</i> , section 24	28
<i>Noxious Weeds Act 1993</i> , section 52	29

<i>Occupational Health and Safety Act 2000</i> , section 58	1
<i>Offshore Minerals Act 1999</i> , section 382	2
<i>Optometrists Act 2002</i> , section 132	3
<i>Osteopaths Act 2001</i> , section 128	4
<i>Pesticides Act 1999</i> , section 35	5
<i>Petroleum (Onshore) Act 1991</i> , section 104	6
<i>Physiotherapists Act 2001</i> , section 129	7
<i>Physiotherapists Registration Act 1945</i> , section 18	8
<i>Poisons and Therapeutic Goods Act 1966</i> , section 43A	9
<i>Police Integrity Commission Act 1996</i> , section 45	10
<i>Poultry Meat Industry Act 1986</i> , section 161	11
<i>Prevention of Cruelty to Animals Act 1979</i> , section 27	12
<i>Property, Stock and Business Agents Act 2002</i> , section 209	13
<i>Protection of the Environment Operations Act 1997</i> , section 199	14
<i>Psychologists Act 2001</i> , section 128	15
<i>Public Health Act 1991</i> , section 73	16
<i>Public Lotteries Act 1996</i> , section 72	17
<i>Radiation Control Act 1990</i> , section 16	18
<i>Rail Safety Act 1993</i> , section 75	19
<i>Registered Clubs Act 1976</i> , sections 129 and 151	20
<i>Revenue Laws (Reciprocal Powers) Act 1987</i> , section 7	21
<i>Road and Rail Transport (Dangerous Goods) Act 1997</i> , section 24	22
<i>Road Transport (General) Act 1999</i> , section 41	23
<i>Roads Act 1993</i> , section 174	24
<i>Royal Commission (Police Service) Act 1994</i> , section 15	25
<i>Rural Lands Protection Act 1998</i> , section 196	26
<i>Security Industry Act 1997</i> , section 42	27
<i>Smoke-free Environment Act 2000</i> , section 16	28
<i>Stock (Artificial Breeding) Act 1985</i> , section 33	29

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Schedule 2 Search warrants under other Acts

<i>Stock Medicines Act 1989</i> , section 51	1
<i>Summary Offences Act 1988</i> , section 21	2
<i>Swimming Pools Act 1992</i> , section 29	3
<i>Taxation Administration Act 1996</i> , section 77	4
<i>Totalizator Act 1997</i> , section 95	5
<i>Tow Truck Industry Act 1998</i> , section 83	6
<i>Trade Measurement Administration Act 1989</i> , section 22	7
<i>Unlawful Gambling Act 1998</i> , section 40	8
<i>Water Management Act 2000</i> , section 338	9
<i>Workplace Injury Management and Workers Compensation Act 1998</i> , section 238A	10 11

Schedule 3 Repeals

	1
(Section 239)	2
<i>Intoxicated Persons Act 1979 No 67</i>	3
<i>Police Powers (Drug Detection Dogs) Act 2001 No 115</i>	4
<i>Police Powers (Drug Premises) Act 2001 No 30</i>	5
<i>Police Powers (Internally Concealed Drugs) Act 2001 No 31</i>	6
<i>Police Powers (Vehicles) Act 1998 No 166</i>	7
<i>Search Warrants Act 1985 No 37</i>	8

Schedule 4	Amendment of other Acts and instrument	1
	(Section 240)	2
4.1	Agricultural Industry Services Act 1998 No 45	3
[1]	Section 41 Search warrants	4
	Omit “authorised justice” wherever occurring in section 41 (1) and (2).	5
	Insert instead “authorised officer”.	6
[2]	Section 41 (3)	7
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	8
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	9
		10
[3]	Section 41 (4)	11
	Omit the subsection. Insert instead:	12
	(4) In this section:	13
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	14
		15
4.2	Animal Research Act 1985 No 123	16
[1]	Section 3 Definitions	17
	Omit the definition of <i>authorised justice</i> from section 3 (1).	18
	Insert instead in alphabetical order:	19
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	20
		21

[2] Section 51 Search warrants	1
Omit “authorised justice” wherever occurring in section 51 (1) and (2).	2
Insert instead “authorised officer”.	3
[3] Section 51 (3)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6
	7
[4] Section 51 (4)	8
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	9
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	10
	11
4.3 Apprenticeship and Traineeship Act 2001 No 80	12
[1] Section 68 Search warrants	13
Omit “authorised justice” wherever occurring in section 68 (1) and (2).	14
Insert instead “authorised officer”.	15
[2] Section 68 (3)	16
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	17
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	18
	19
[3] Section 68 (4)	20
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	21
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	22
	23

[4] Section 68 (6)	1
Omit the subsection. Insert instead:	2
(6) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.4 Casino Control Act 1992 No 15	6
[1] Section 112 Search warrants	7
Omit “authorised justice” wherever occurring in section 112 (1) and (2).	8
Insert instead “authorised officer”.	9
[2] Section 112 (4)	10
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	11
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
	13
[3] Section 112 (5)	14
Omit the subsection. Insert instead:	15
(5) In this section:	16
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	17
	18
4.5 Charitable Fundraising Act 1991 No 69	19
[1] Section 29 Search warrant	20
Omit “authorised justice” wherever occurring in section 29 (1) and (2).	21
Insert instead “authorised officer”.	22

[2] Section 29 (1)	1
Omit “ <i>Search Warrants Act 1985</i> ”.	2
Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3
[3] Section 29 (4)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6 7
4.6 Children and Young Persons (Care and Protection) Act 1998 No 157	8 9 10
[1] Section 3 Definitions	11
Omit the definition of <i>authorised justice</i> .	12
Insert instead in alphabetical order:	13
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	14 15
[2] Sections 233 (1) and (2), 260 (1)	16
Omit “authorised justice” wherever occurring.	17
Insert instead “authorised officer”.	18
[3] Section 243	19
Omit the section. Insert instead:	20
243 Application of search warrants provisions	21
Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> (sections 62 (1) (c) and 67 (2) (b) (iv) excepted) applies to a search warrant issued under this Act.	22 23 24 25

4.7 Children (Care and Protection) Act 1987 No 54	1
	2
[1] Section 3 Definitions	3
Omit the definition of <i>authorised justice</i> from section 3 (1).	4
[2] Section 94 Search warrants	5
Omit “authorised justice” wherever occurring in section 94 (1) and (2).	6
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
	8
[3] Section 94 (3)	9
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11
	12
[4] Section 94 (4)	13
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	14
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	15
	16
[5] Section 116 Search warrants	17
Omit “authorised justice” wherever occurring in section 116 (1) and (2).	18
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19
	20
[6] Section 116 (3)	21
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	22
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	23
	24
[7] Section 116 (4)	25
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	26
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	27
	28

[8] Section 122 Evidence of young children	1
Omit “authorised justice” from section 122 (1).	2
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[9] Section 122 (1)	5
Omit “justice” where secondly occurring.	6
Insert instead “authorised officer”.	7
4.8 Children (Interstate Transfer of Offenders) Act 1988 No 85	8
[1] Section 3 Definitions	9
Omit the definition of <i>authorised justice</i> .	10
Insert instead in alphabetical order:	11
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	12 13
[2] Section 15 Escape from custody	14
Omit “authorised justice” wherever occurring in section 15 (2) and (5).	15
Insert instead “authorised officer”.	16
[3] Section 16 Search warrants	17
Omit “authorised justice” wherever occurring in section 16 (1) and (2).	18
Insert instead “authorised officer”.	19
[4] Section 16 (3)	20
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	21
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	22 23

[5] Section 16 (4)	1
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
4.9 Chiropractors Act 2001 No 15	5
[1] Section 128 Search warrants	6
Omit “authorised justice” wherever occurring in section 128 (1) and (3).	7
Insert instead “authorised officer”.	8
[2] Section 128 (4)	9
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11 12
[3] Section 128 (5)	13
Omit the subsection. Insert instead:	14
(5) In this section:	15
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16 17
4.10 Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63	18 19
[1] Section 55 Search warrants	20
Omit “authorised justice” wherever occurring in section 55 (1) and (2).	21
Insert instead “authorised officer”.	22

[2] Section 55 (3)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 55 (5)	5
Omit the subsection. Insert instead:	6
(5) In this section:	7
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.11 Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2	10 11
[1] Section 18 Search warrants	12
Omit “authorised justice” wherever occurring in section 18 (1) and (2). Insert instead “authorised officer”.	13 14
[2] Section 18 (3)	15
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	16
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	17 18
[3] Section 18 (5)	19
Omit the subsection. Insert instead:	20
(5) In this section:	21
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	22 23

4.12	Confiscation of Proceeds of Crime Act 1989 No 90	1
[1]	Section 35 Definitions	2
	Omit the definition of <i>authorised justice</i> from section 35 (1).	3
	Insert instead in alphabetical order:	4
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	5
		6
[2]	Section 36 Search warrants	7
	Omit “authorised justice” wherever occurring in section 36 (1) and (2).	8
	Insert instead “authorised officer”.	9
[3]	Section 36 (4)	10
	Omit “Part 2 of the <i>Search Warrants Act 1985</i> ”.	11
	Insert instead “Division 3 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
		13
[4]	Section 36 (5)	14
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	15
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16
		17
[5]	Section 39 Issue of warrants if charge not laid	18
	Omit “authorised justice” wherever occurring. Insert instead “authorised officer”.	19
		20
4.13	Consumer Credit Administration Act 1995 No 69	21
[1]	Section 9 Search warrants	22
	Omit “authorised justice” wherever occurring in section 9 (1) and (2).	23
	Insert instead “authorised officer”.	24

[2] Section 9 (3)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 9 (4)	5
Omit the subsection. Insert instead:	6
(5) In this section:	7
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.14 Contaminated Land Management Act 1997 No 140	10
[1] Section 84 Search warrants	11
Insert “under this Act” after “authorised officer” wherever occurring in section 84 (1) and (2).	12 13
[2] Section 84 (1) and (2)	14
Omit “authorised justice” wherever occurring.	15
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16 17
[3] Section 84 (3)	18
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20 21
[4] Section 84 (4)	22
Omit the subsection.	23

4.15	Co-operatives Act 1992 No 18	1
[1]	Section 381 Search warrants	2
	Omit “authorised justice” wherever occurring in section 381 (1) and (2).	3
	Insert instead “authorised officer”.	4
[2]	Section 381 (3)	5
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	6
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
		8
[3]	Section 381 (4)	9
	Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	10
	Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11
		12
[4]	Section 381 (5)	13
	Omit the subsection. Insert instead:	14
	(5) In this section:	15
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16
		17
4.16	Crimes Act 1900 No 40	18
[1]	Sections 352–352A	19
	Omit the sections.	20
[2]	Sections 353A–353AB	21
	Omit the sections.	22
[3]	Part 10A Detention after arrest for purposes of investigation	23
	Omit the Part.	24

[4] Part 10B, heading	1
Omit the heading. Insert instead:	2
Part 10B Harbours escapees	3
[5] Part 10B, Divisions 1, 2, 3 and 4 (sections 357–358B)	4
Omit the Divisions.	5
[6] Part 10B, Division 5	6
Omit the heading to the Division.	7
[7] Section 563 Power to demand name and address	8
Omit the section.	9
[8] Section 578D Police may enter and search premises for child pornography or indecent articles	10
	11
Omit the section.	12
4.17 Crimes (Administration of Sentences) Act 1999 No 93	13
Section 4 Application of Part	14
Omit “ <i>Intoxicated Persons Act 1979</i> ” from section 4 (2).	15
Insert instead “Part 16 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16
	17

4.18 Crimes (Forensic Procedures) Act 2000 No 59	1
[1] Section 3 Interpretation	2
Omit the definition of <i>authorised justice</i> and the note to the definition from section 3 (1).	3
Insert instead in alphabetical order:	4
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	5
	6
	7
[2] Sections 3 (1), definitions of “order” and “time out”, 6, 13, 14, 22, 23, 32, 33, 34, 35, 36, 36A, 39, 40 (1), 41, 42 (1) (a), 43A, 98 (2) (c), 107 (b)	8
	9
Omit “authorised justice” wherever occurring.	10
Insert instead “authorised officer”.	11
[3] Sections 3 (2), 6, 7 (5), 17 (5), 42 (1)	12
Omit “Part 10A of the <i>Crimes Act 1900</i> ” wherever occurring.	13
Insert instead “Part 9 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	14
	15
[4] Sections 6, 7, 17 (3)	16
Omit “section 356D of the <i>Crimes Act 1900</i> ” wherever occurring.	17
Insert instead “section 115 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	18
	19
[5] Part 5, heading and Part 5, Division 4, heading	20
Omit “ authorised justice ” wherever occurring.	21
Insert instead “ authorised officer ”.	22
[6] Section 36 Records of application and interim order	23
Omit “authorised justice’s” wherever occurring in section 36 (1), (4), (5) and (6).	24
	25
Insert instead “authorised officer’s”.	26

[7] Sections 36 (3) and 36A	1
Omit “ <i>authorised justice’s record</i> ” wherever occurring.	2
Insert instead “ <i>authorised officer’s record</i> ”.	3
[8] Sections 36 (3) and 36A	4
Omit “authorised justice’s record” wherever occurring.	5
Insert instead “authorised officer’s record”.	6
[9] Section 112 Relationship with Division 3 of Part 10 of the Law Enforcement (Powers and Responsibilities) Act 2002	7
	8
Omit “section 353AA of the <i>Crimes Act 1900</i> ” from section 112 (a).	9
Insert instead “section 136 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	10
	11
[10] Section 112 (b)	12
Omit “section 353A (3) of the <i>Crimes Act 1900</i> ”.	13
Insert instead “section 133 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	14
	15
[11] Section 113 Relationship with Parts 9 and 15 of the Law Enforcement (Powers and Responsibilities) Act 2002	16
	17
Omit “Part 10A of the <i>Crimes Act 1900</i> ” wherever occurring.	18
Insert instead “Parts 9 and 15 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19
	20
[12] Section 113	21
Omit “that Part” wherever occurring. Insert instead “those Parts”.	22

4.19	Criminal Assets Recovery Act 1990 No 23	1
[1]	Section 6 Meaning of “serious crime related activity”	2
	Omit “section 13 (Allowing use of premises as drug premises—offence by owner or occupier) of the <i>Police Powers (Drug Premises) Act 2001</i> ” from section 6 (4).	3 4 5
	Insert instead “section 36Y (Allowing use of premises as drug premises—offence by owner or occupier) of the <i>Drug Misuse and Trafficking Act 1985</i> ”.	6 7 8
[2]	Section 38 Search warrants	9
	Insert “under this Act” after “authorised officer” wherever occurring in section 38 (1) and (2).	10 11
[3]	Section 38 (1) and (2)	12
	Omit “authorised justice” wherever occurring.	13
	Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	14 15
[4]	Section 38 (1)	16
	Omit “within the meaning of the <i>Search Warrants Act 1985</i> ”.	17
	Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	18
[5]	Section 38 (3)	19
	Omit “Part 2 of the <i>Search Warrants Act 1985</i> ”.	20
	Insert instead “Division 2 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	21 22
[6]	Section 38 (4)	23
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	24
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	25 26

[7] Section 42A Disposal of seized property to Commission	1
Omit “section 7 of the <i>Search Warrants Act 1985</i> ” from section 42A (1).	2
Insert instead “section 49 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
4.20 Criminal Procedure Act 1986 No 209	5
Part 6 Police custody of property	6
Omit the Part.	7
4.21 Dangerous Goods Act 1975 No 68	8
[1] Section 42 Search warrant	9
Omit section 42 (1). Insert instead:	10
(1) In this section:	11
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	12 13
[2] Section 42 (2) and (3)	14
Omit “authorised justice” wherever occurring.	15
Insert instead “authorised officer”.	16
[3] Section 42 (4)	17
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	18
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19 20

4.22	Dental Practice Act 2001 No 64	1
[1]	Section 154 Search warrants	2
	Omit “authorised justice” wherever occurring in section 154 (1) and (3).	3
	Insert instead “authorised officer”.	4
[2]	Section 154 (4)	5
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	6
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
		8
[3]	Section 154 (5)	9
	Omit the subsection. Insert instead:	10
	(5) In this section:	11
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	12
		13
4.23	Dental Technicians Registration Act 1975 No 40	14
[1]	Section 25 Power of entry of inspectors	15
	Omit “authorised justice” wherever occurring in section 25 (2) and (2A).	16
	Insert instead “authorised officer”.	17
[2]	Section 25 (2B)	18
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20
		21

[3] Section 25 (4)	1
Omit the subsection. Insert instead:	2
(4) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.24 Disorderly Houses Act 1943 No 6	6
[1] Section 13 Suspected premises—issue of search warrant	7
Omit section 13 (1). Insert instead:	8
(1) In this section:	9
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	10
	11
[2] Section 13 (2) and (3)	12
Omit “authorised justice” wherever occurring.	13
Insert instead “authorised officer”.	14
[3] Section 13 (4)	15
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	16
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	17
	18
4.25 Drug Misuse and Trafficking Act 1985 No 226	19
[1] Section 3 Definitions	20
Insert in alphabetical order in section 3 (1):	21
<i>drug premises</i> means any premises that are used for the	22
unlawful supply or manufacture of prohibited drugs.	23

[2] Part 2B	1
Insert after Part 2A:	2
Part 2B Offences involving drug premises	3
36U Prohibited drugs to which Part does not apply	4
In this Part, <i>prohibited drug</i> does not include cannabis leaf, cannabis oil or cannabis resin.	5 6
36V Possession of prohibited drugs, or presence of prohibited drugs, on premises	7 8
In proceedings for an offence against this Part, it is not necessary to prove that the person had a prohibited drug in his or her possession or that a prohibited drug was found on any premises involved in the offence.	9 10 11 12
36W Evidence that premises are drug premises	13
(1) A court must not find a person guilty of an offence against this Part unless the prosecution satisfies the court beyond a reasonable doubt that at the time the offence is alleged to have been committed any premises involved in the offence were being used for the unlawful supply or manufacture of any prohibited drug.	14 15 16 17 18 19
(2) Without limiting matters to which regard may be had in determining whether premises involved in the offence were being used for the unlawful supply or manufacture of any prohibited drug, regard may be had to any or all of the following:	20 21 22 23 24
(a) evidence that a police officer authorised by law to enter the premises was wilfully prevented from, or obstructed or delayed in, entering or re-entering those premises or any part of those premises,	25 26 27 28
(b) evidence of the external or internal construction of the premises, including any external or internal door of, or means of access to, those premises that is found to be likely to have been fitted with a bolt, bar, chain, or any means or device for the purpose of preventing, delaying	29 30 31 32 33

or obstructing the entry or re-entry into those premises of such a police officer or any other person, or for giving an alarm in case of such entry or re-entry,	1
	2
	3
(c) evidence of a person acting as a lookout to warn persons on the premises of the approach of police officers or other persons,	4
	5
	6
(d) evidence that there was found on those premises, or in the possession of a person on those premises, any syringe or other means or device used in the supply, manufacture or use of a prohibited drug,	7
	8
	9
	10
(e) evidence that there was found on the premises, or in the possession of a person on the premises, a firearm or prohibited weapon the possession of which is unlawful,	11
	12
	13
(f) evidence that there was found on those premises any documents or other records, including any computer records, that appear to have been kept or used in connection with the unlawful supply or manufacture of a prohibited drug,	14
	15
	16
	17
	18
(g) evidence that there was found on the premises any large amount of money that is not accounted for by the owner or occupier of the premises,	19
	20
	21
(h) evidence that there were found on those premises persons who appeared to be affected by a prohibited drug.	22
	23
	24
36X Offence of entering, or being on, drug premises	25
(1) A person who is found on, or who is found entering or leaving, drug premises is guilty of an offence.	26
	27
Maximum penalty:	28
(a) for a first offence—50 penalty units or imprisonment for 12 months (or both), and	29
	30
(b) for a second or subsequent offence—500 penalty units or imprisonment for 5 years (or both).	31
	32
(2) A person is not guilty of an offence under this section if the person satisfies the court that he or she was on, or was entering or leaving, the drug premises for a lawful purpose or with a lawful excuse.	33
	34
	35
	36

36Y	Allowing use of premises as drug premises—offence by owner or occupier	1
		2
	A person who is the owner or occupier of any premises must not knowingly allow the premises to be used as drug premises.	3
		4
	Maximum penalty:	5
	(a) for a first offence—50 penalty units or imprisonment for 12 months (or both), and	6
		7
	(b) for a second or subsequent offence—500 penalty units or imprisonment for 5 years (or both).	8
		9
36Z	Offence of organising drug premises	10
	(1) A person must not organise or conduct, or assist in organising or conducting, any drug premises.	11
		12
	Maximum penalty:	13
	(a) for a first offence—50 penalty units or imprisonment for 12 months (or both), and	14
		15
	(b) for a second or subsequent offence—500 penalty units or imprisonment for 5 years (or both).	16
		17
	(2) For the purposes of this section, a person assists in organising or conducting drug premises if, for example, the person acts as a lookout, door attendant or guard in respect of any premises that are organised or conducted as drug premises.	18
		19
		20
		21
	(3) A person is not guilty of an offence under this section of organising or conducting drug premises or of assisting in organising or conducting drug premises if the person satisfies the court that he or she did not know, and could not reasonably be expected to have known, that the premises were being organised or conducted as drug premises.	22
		23
		24
		25
		26
		27
36ZA	Proceedings for offences	28
	(1) Except as provided by subsection (2), proceedings for an offence under this Part are to be dealt with summarily before a Local Court.	29
		30
		31
	(2) A second or subsequent offence under section 36X, 36Y or 36Z is to be prosecuted on indictment.	32
		33

(3) If proceedings for an offence under this Part are dealt with summarily before a Local Court, the maximum penalty that may be imposed is 100 penalty units or imprisonment for 2 years (or both), or the maximum penalty provided for the offence, whichever is the lesser.	1 2 3 4 5
36ZB Offences by corporations	6
(1) If a corporation contravenes (whether by act or omission) any provision of this Part, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision, unless the person satisfies the court that:	7 8 9 10 11
(a) the corporation contravened the provision without the actual, imputed or constructive knowledge of the person, or	12 13 14
(b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or	15 16 17
(c) the person, if in such a position, used all due diligence to prevent the contravention by the corporation.	18 19
(2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or been convicted under that provision.	20 21 22 23
(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Part or regulations made under this Part.	24 25 26
(4) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention.	27 28 29 30 31

36ZC	Forfeiture to Crown	1
	(1) If a person is convicted of an offence under this Part:	2
	(a) any money or thing that is kept or used in connection with, or that relates to, any activity prohibited by or under this Act, that is seized in relation to the offence, and	3 4 5 6
	(b) any documents or other records, including any computer records, devices or programs, that are kept or used in connection with, or that relate to, any activity prohibited under this Act and that are seized in relation to the offence, and	7 8 9 10 11
	(c) any firearm or prohibited weapon that is seized on the premises connected with an offence under any other Act,	12 13 14
	is or are forfeited to the Crown.	15
	(2) If a person is convicted of an offence under this Part, the court may order the forfeiture to the Crown of any money or thing, and any such documents or other records in the person's possession at the time of the offence if the court is satisfied that the prohibited drug, or such thing, were used by the person for or in connection with the commission of the offence.	16 17 18 19 20 21
	(3) A police officer may seize and carry away any thing that may reasonably be suspected to be liable to forfeiture under this section.	22 23 24
[3]	Section 37 Powers of search and detention	25
	Omit the section.	26
4.26	Electricity Safety Act 1945 (1946 No 13)	27
[1]	Section 21I Search warrant	28
	Omit the definition of <i>authorised justice</i> from section 21I (1). Insert instead:	29 30
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	31 32

[2] Section 211 (2) and (3)	1
Omit “authorised justice” wherever occurring.	2
Insert instead “authorised officer”.	3
[3] Section 211 (4)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6
	7
[4] Section 271 Search warrant	8
Omit the definition of <i>authorised justice</i> from section 271 (1).	9
Insert instead:	10
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	11
	12
[5] Section 271 (2) and (3)	13
Omit “authorised justice” wherever occurring.	14
Insert instead “authorised officer”.	15
[6] Section 271 (4)	16
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	17
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	18
	19
4.27 Electricity Supply Act 1995 No 94	20
[1] Section 63 Warrants of entry	21
Omit “authorised justice” wherever occurring in section 63 (1) and (2).	22
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	23
	24

[2] Section 63 (1)	1
Omit “authorised officer”.	2
Insert instead “authorised officer within the meaning of this Act”.	3
[3] Section 63 (3)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6 7
[4] Section 63 (4)	8
Omit the subsection.	9
4.28 Employment Agents Act 1996 No 18	10
[1] Section 28 Search warrant	11
Omit “authorised justice” wherever occurring in section 28 (1) and (2).	12
Insert instead “authorised officer”.	13
[2] Section 28 (3)	14
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	15
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16 17
[3] Section 28 (4)	18
Omit the definition of <i>authorised justice</i> . Insert instead:	19
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	20 21

4.29	Entertainment Industry Act 1989 No 230	1
[1]	Section 58 Search warrants	2
	Omit the definition of <i>authorised justice</i> . Insert instead:	3
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4 5
[2]	Section 58 (2) and (3)	6
	Omit “authorised justice” wherever occurring.	7
	Insert instead “authorised officer”.	8
[3]	Section 58 (4)	9
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11 12
4.30	Environmentally Hazardous Chemicals Act 1985 No 14	13
[1]	Section 46 Search warrant	14
	Omit section 46 (1).	15
[2]	Section 46 (2)	16
	Insert “under this Act” after “authorised officer”.	17
[3]	Section 46 (2) and (3)	18
	Omit “authorised justice” wherever occurring.	19
	Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20 21
[4]	Section 46 (4)	22
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	23
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	24 25

4.31	Environmental Planning and Assessment Act 1979 No 203	1
[1]	Section 118K Search warrants	2
	Omit “authorised justice” wherever occurring in section 118K (1) and (2).	3
	Insert instead “authorised officer”.	4
[2]	Section 118K (3)	5
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	6
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
		8
[3]	Section 118K (4)	9
	Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	10
	Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11
		12
[4]	Section 118K (5)	13
	Omit the subsection. Insert instead:	14
	(5) In this section:	15
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16
		17
4.32	Exhibited Animals Protection Act 1986 No 123	18
[1]	Section 42 Search warrant	19
	Omit section 42 (1). Insert instead:	20
	(1) In this section:	21
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	22
		23

[2] Section 42 (2) and (3)	1
Omit “authorised justice” wherever occurring.	2
Insert instead “authorised officer”.	3
[3] Section 42 (4)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6
	7
4.33 Exotic Diseases of Animals Act 1991 No 73	8
[1] Section 48 Search warrant	9
Omit “authorised justice” wherever occurring in section 48 (1) and (2).	10
Insert instead “authorised officer”.	11
[2] Section 48 (1)	12
Omit “ <i>Search Warrants Act 1985</i> ”.	13
Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	14
[3] Section 48 (2)	15
Omit “the justice”. Insert instead “the authorised officer”.	16
[4] Section 48 (3)	17
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	18
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19
	20
4.34 Fines Act 1996 No 99	21
[1] Section 76 Power of entry to execute property seizure order	22
Omit “authorised justice” wherever occurring in section 76 (3) and (4).	23
Insert instead “authorised officer”.	24

[2] Section 76 (5)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 76 (6)	5
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	6
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7 8
[4] Section 76 (8)	9
Omit the definition of <i>authorised justice</i> . Insert instead:	10
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	11 12
[5] Schedule 1 Statutory provisions under which penalty notices issued	13
Insert in alphabetical order:	14
<i>Law Enforcement (Powers and Responsibilities) Act 2002</i> , section 235	15 16
4.35 Firearms Act 1996 No 46	17
Part 6A Use of dogs to detect firearms and explosives	18
Omit the Part.	19
4.36 First Home Owner Grant Act 2000 No 21	20
[1] Section 41 Search warrant	21
Insert “under this Act” after “authorised officer” wherever occurring in section 41 (1) and (2).	22 23

[2] Section 41 (1) and (2)	1
Omit “authorised justice” wherever occurring in section 41 (1) and (2).	2
Insert instead “authorised officer under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 41 (4)	5
Omit the subsection.	6
4.37 Fisheries Management Act 1994 No 38	7
[1] Section 214 Search warrant	8
Omit “authorised justice” wherever occurring in section 214 (1) and (2).	9
Insert instead “authorised officer”.	10
[2] Section 214 (3)	11
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	12
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	13 14
[3] Section 214 (4)	15
Omit the subsection. Insert instead:	16
(4) In this section:	17
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	18 19
[4] Section 260 Issue of search warrants	20
Omit “authorised justice” wherever occurring in section 260 (1) and (2).	21
Insert instead “authorised officer”.	22
[5] Section 260 (3)	23
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	24
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	25 26

[6] Section 260 (5)	1
Omit the subsection. Insert instead:	2
(5) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.38 Fitness Services (Pre-paid Fees) Act 2000 No 95	6
[1] Section 12 Search warrants	7
Omit “authorised justice” wherever occurring in section 12 (1) and (2).	8
Insert instead “authorised officer”.	9
[2] Section 12 (3)	10
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	11
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
	13
[3] Section 12 (5)	14
Omit the definition of <i>authorised justice</i> . Insert instead:	15
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16
	17
4.39 Food Production (Safety) Act 1998 No 128	18
[1] Section 25 Search warrants	19
Insert “under this Act” after “authorised officer” wherever occurring in section 25 (1) and (2).	20
	21
[2] Section 25 (1) and (2)	22
Omit “authorised justice” wherever occurring.	23
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	24
	25

[3] Section 25 (3)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[4] Section 25 (4)	5
Omit the subsection. Insert instead:	6
(4) In this section:	7
<i>premises</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.40 Game and Feral Animal Control Act 2002 No 64	10
[1] Section 40 Use of force on entry	11
Omit “section 17 of the <i>Search Warrants Act 1985</i> ” from section 40 (3).	12
Insert instead “section 70 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	13 14
[2] Section 42 Search warrant	15
Omit “authorised justice” wherever occurring in section 42 (1) and (2).	16
Insert instead “authorised officer”.	17
[3] Section 42 (3)	18
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20 21
[4] Section 42 (4)	22
Omit the subsection. Insert instead:	23
(4) In this section:	24
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	25 26

[5] Section 49 Inspector may request assistance	1
Omit “section 18 of the <i>Search Warrants Act 1985</i> ” from section 49 (3).	2
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
4.41 Gaming Machines Act 2001 No 127	5
[1] Section 184 Search warrants	6
Omit “authorised justice” wherever occurring in section 184 (1) and (2).	7
Insert instead “authorised officer”.	8
[2] Section 184 (3)	9
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11 12
[3] Section 184 (6)	13
Omit the subsection. Insert instead:	14
(6) In this section:	15
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16 17
[4] Section 185 Forfeiture or return of removed or seized gaming machines	18
Omit “authorised justice under the <i>Search Warrants Act 1985</i> ” from section 185 (2).	19 20
Insert instead “authorised officer under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	21 22

4.42 Gas Supply Act 1996 No 38	1
[1] Section 64 Warrants of entry	2
Omit “authorised justice” wherever occurring in section 64 (1) and (2).	3
Insert instead “authorised officer”.	4
[2] Section 64 (3)	5
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	6
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
	8
[3] Section 64 (4)	9
Omit the subsection. Insert instead:	10
(4) In this section:	11
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	12
	13
4.43 Grain Marketing Act 1991 No 15	14
[1] Section 87 Access to premises and motor vehicles	15
Insert “under this Act” after “authorised officer” wherever occurring.	16
[2] Section 87 (4) and (5)	17
Omit “authorised justice” wherever occurring.	18
Insert instead “authorised officer under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19
	20
[3] Section 87 (6)	21
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	22
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	23
	24

[4] Section 87 (10)	1
Omit the definition of <i>authorised justice</i> .	2
4.44 Guardianship Act 1987 No 257	3
[1] Section 3 Definitions	4
Omit the definition of <i>authorised justice</i> from section 3 (1).	5
[2] Section 12 Power of search and removal of persons	6
Omit “authorised justice” wherever occurring in section 12 (1) and (2).	7
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	8
	9
[3] Section 12 (3)	10
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	11
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
	13
[4] Section 12 (4)	14
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	15
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16
	17
[5] Section 102 Search warrants	18
Omit “authorised justice” wherever occurring in section 102 (1) and (2).	19
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20
	21
[6] Section 102 (3)	22
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	23
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	24
	25

[7] Section 102 (4)	1
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
4.45 Health Care Complaints Act 1993 No 105	5
[1] Section 34 Search warrant	6
Omit “authorised justice” wherever occurring in section 34 (1) and (3).	7
Insert instead “authorised officer”.	8
[2] Section 34 (4)	9
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11 12
[3] Section 34 (5)	13
Omit the subsection. Insert instead:	14
(5) In this section:	15
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16 17
4.46 Home Building Act 1989 No 147	18
[1] Section 126 Power of entry	19
Omit “authorised justice” wherever occurring in section 126 (4) and (5).	20
Insert instead “authorised officer”.	21
[2] Section 126 (6)	22
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	23
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	24 25

[3] Section 126 (6A)	1
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[4] Section 126 (7)	5
Omit the subsection. Insert instead:	6
(7) In this section:	7
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.47 Independent Commission Against Corruption Act 1988 No 35	10
[1] Section 3 Definitions	11
Omit the definition of <i>authorised justice</i> from section 3 (1).	12
Insert instead in alphabetical order:	13
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	14 15
[2] Section 40 Issue of search warrant	16
Omit “authorised justice” wherever occurring in section 40 (1) and (3).	17
Insert instead “authorised officer”.	18
[3] Section 40 (3)	19
Omit “authorised justices”. Insert instead “authorised officers”.	20
[4] Section 48 Search warrants	21
Omit “Part 3 of the <i>Search Warrants Act 1985</i> (other than sections 16–20)”	22
from section 48 (1).	23
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> (other than sections 69–73)”.	24 25

[5] Section 48 (2)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> so applies as if references in that Part”.	2
	3
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> so applies as if references in that Division”.	4
	5
[6] Section 48 (2)	6
Omit “authorised justice”. Insert instead “authorised officer”.	7
[7] Section 76 Annual reports	8
Omit “authorised justices” from section 76 (2) (f).	9
Insert instead “authorised officers”.	10
4.48 Industrial Relations Act 1996 No 17	11
[1] Section 388 Search warrant	12
Omit “authorised justice” wherever occurring in section 388 (1) and (2).	13
Insert instead “authorised officer”.	14
[2] Section 388 (3)	15
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	16
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	17
	18
[3] Section 388 (4)	19
Omit the subsection. Insert instead:	20
(4) In this section:	21
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	22
	23

4.49	Liquor Act 1982 No 147	1
[1]	Section 151 Search warrants	2
	Omit section 151 (1). Insert instead:	3
	(1) In this section:	4
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	5 6
[2]	Section 151 (2) and (2A)	7
	Omit “authorised justice” wherever occurring.	8
	Insert instead “authorised officer”.	9
[3]	Section 151 (2B)	10
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	11
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12 13
4.50	Local Government Act 1993 No 30	14
[1]	Section 201 Search warrants	15
	Omit “authorised justice” wherever occurring in section 201 (1) and (2).	16
	Insert instead “authorised officer”.	17
[2]	Section 201 (3)	18
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20 21
[3]	Section 201 (4)	22
	Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	23
	Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	24 25

[4] Section 201 (5)	1
Omit the subsection. Insert instead:	2
(5) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.51 Lotteries and Art Unions Act 1901 No 34	6
[1] Section 21E Search warrant	7
Omit “authorised justice” wherever occurring in section 21E (1) and (2).	8
Insert instead “authorised officer”.	9
[2] Section 21E (1)	10
Omit “ <i>Search Warrants Act 1985</i> ”.	11
Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
[3] Section 21E (4)	13
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	14
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	15
	16
4.52 Marketing of Primary Products Act 1983 No 176	17
[1] Section 138 Access to premises and motor vehicles	18
Omit “authorised justice” wherever occurring in section 138 (4) and (5).	19
Insert instead “authorised officer”.	20
[2] Section 138 (5A)	21
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	22
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	23
	24

[3] Section 138 (9)	1
Omit the definition of <i>authorised justice</i> . Insert instead:	2
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	3
	4
4.53 Medical Practice Act 1992 No 94	5
[1] Section 125 Search warrant	6
Omit “authorised justice” wherever occurring in section 125 (1) and (3).	7
Insert instead “authorised officer”.	8
[2] Section 125 (4)	9
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11
	12
[3] Section 125 (5)	13
Omit the subsection. Insert instead:	14
(5) In this section:	15
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16
	17
4.54 Motor Dealers Act 1974 No 52	18
[1] Section 53AA Search warrants—entry of unlicensed premises	19
Omit section 53AA (1). Insert instead:	20
(1) In this section:	21
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	22
	23

[2] Section 53AA (2) and (3)	1
Omit “authorised justice” wherever occurring.	2
Insert instead “authorised officer”.	3
[3] Section 53AA (4)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6
	7
4.55 Motor Vehicle Repairs Act 1980 No 71	8
[1] Section 75A Search warrants—entry of unlicensed premises	9
Omit section 75A (1). Insert instead:	10
(1) In this section:	11
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	12
	13
[2] Section 75A (2) and (3)	14
Omit “authorised justice” wherever occurring.	15
Insert instead “authorised officer”.	16
[3] Section 75A (4)	17
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	18
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19
	20
4.56 National Parks and Wildlife Act 1974 No 80	21
[1] Section 164 Powers of entry and seizure	22
Omit “authorised justice” wherever occurring in section 164 (5) and (6).	23
Insert instead “authorised officer”.	24

[2] Section 164 (8)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 164 (9)	5
Omit the subsection. Insert instead:	6
(9) In this section:	7
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.57 New South Wales Crime Commission Act 1985 No 117	10
[1] Section 11 Search warrants	11
Omit the definition of <i>authorised justice</i> in section 11 (1). Insert instead:	12
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	13 14
[2] Section 11 (2) and (3)	15
Omit “authorised justice” wherever occurring.	16
Insert instead “authorised officer”.	17
[3] Section 11 (4)	18
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20 21
4.58 Non-Indigenous Animals Act 1987 No 166	22
[1] Section 24 Search warrant	23
Insert “under this Act” after “authorised officer” in section 24 (1) where firstly occurring.	24 25

[2] Section 24 (1) and (2)	1
Omit “authorised justice” wherever occurring.	2
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 24 (1)	5
Omit “ <i>Search Warrants Act 1985</i> ”.	6
Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
[4] Section 24 (3)	8
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	9
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	10 11
4.59 Noxious Weeds Act 1993 No 11	12
[1] Section 52 Search warrant	13
Insert “under this Act” after “authorised officer” wherever occurring in section 52 (1), (2) and (3).	14 15
[2] Section 52 (1) and (3)	16
Omit “authorised justice” wherever occurring.	17 18
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19 20
[3] Section 52 (4)	21
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	22
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	23 24
[4] Section 52 (5)	25
Omit the subsection.	26

4.60	Occupational Health and Safety Act 2000 No 40	1
[1]	Section 54 Use of force on entry	2
	Omit “section 17 of the <i>Search Warrants Act 1985</i> ” from section 54 (3).	3
	Insert instead “section 70 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	4 5
[2]	Section 58 Search warrant	6
	Omit “authorised justice” wherever occurring in section 58 (1) and (2).	7
	Insert instead “authorised officer”.	8
[3]	Section 58 (3)	9
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11 12
[4]	Section 58 (4)	13
	Omit the subsection. Insert instead:	14
	(4) In this section:	15
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	16 17
[5]	Section 68 Inspector may request assistance	18
	Omit “section 18 of the <i>Search Warrants Act 1985</i> ” from section 68 (3).	19
	Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20 21
4.61	Offshore Minerals Act 1999 No 42	22
[1]	Section 382 Procedure for obtaining warrant	23
	Omit “authorised justice” wherever occurring in section 382 (1) and (3).	24
	Insert instead “authorised officer”.	25

[2] Section 382 (1)	1
Omit “ <i>Search Warrants Act 1985</i> ”.	2
Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3
4.62 Optometrists Act 2002 No 30	4
[1] Section 132 Search warrants	5
Omit “authorised justice” wherever occurring in section 132 (1) and (3).	6
Insert instead “authorised officer”.	7
[2] Section 132 (4)	8
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	9
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	10
	11
[3] Section 132 (5)	12
Omit the subsection. Insert instead:	13
(5) In this section:	14
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	15
	16
4.63 Osteopaths Act 2001 No 16	17
[1] Section 128 Search warrants	18
Omit “authorised justice” wherever occurring in section 128 (1) and (3).	19
Insert instead “authorised officer”.	20
[2] Section 128 (4)	21
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	22
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	23
	24

[3] Section 128 (5)	1
Omit the subsection. Insert instead:	2
(5) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.64 Petroleum (Onshore) Act 1991 No 84	6
[1] Section 104 Search warrant	7
Omit section 104 (1). Insert instead:	8
(1) In this section:	9
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	10
	11
[2] Section 104 (2) and (3)	12
Omit “authorised justice” wherever occurring.	13
Insert instead “authorised officer”.	14
[3] Section 104 (4)	15
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	16
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	17
	18
4.65 Physiotherapists Act 2001 No 67	19
[1] Section 129 Search warrants	20
Omit “authorised justice” wherever occurring in section 129 (1) and (3).	21
Insert instead “authorised officer”.	22

[2] Section 129 (4)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 129 (5)	5
Omit the subsection. Insert instead:	6
(5) In this section:	7
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.66 Poisons and Therapeutic Goods Act 1966 No 31	10
[1] Section 43A Search warrant may be issued in certain cases	11
Omit section 43A (1). Insert instead:	12
(1) In this section:	13
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	14 15
[2] Section 43A (2) and (3)	16
Omit “authorised justice” wherever occurring.	17
Insert instead “authorised officer”.	18
[3] Section 43A (4)	19
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	20
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	21 22

4.67	Police Act 1990 No 47	1
[1]	Section 6 Mission and functions of NSW Police	2
	Insert after section 6 (5):	3
	(6) Nothing in this section confers on NSW Police a power to provide a police service in a way that is inconsistent with any provisions applicable to police officers under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4 5 6 7
[2]	Section 14 Additional functions of police officers	8
	Insert at the end of the section:	9
	(2) Nothing in this section confers on a police officer a power to exercise a function in a way that is inconsistent with any provisions applicable to police officers under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	10 11 12 13
[3]	Section 215 Protection of police acting in execution of warrant	14
	Omit the section.	15
[4]	Section 219 Regulations	16
	Omit section 219 (2) (e).	17
4.68	Police Integrity Commission Act 1996 No 28	18
[1]	Section 4 Definitions	19
	Omit the definition of <i>authorised justice</i> from section 4 (1).	20
	Insert instead in alphabetical order:	21
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	22 23

[2] Section 45 Issue of search warrant	1
Omit “authorised justice” wherever occurring in section 45 (1), (3), (4) and (5).	2
Insert instead “authorised officer”.	3
[3] Section 45 (3)	4
Omit “authorised justices”. Insert instead “authorised officers”.	5
[4] Section 48 Application of search warrant provisions	6
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ” wherever occurring in section 48 (1) and (2).	7
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	8
[5] Section 48 (2)	9
Omit “authorised justice”. Insert instead “authorised officer”.	10
[6] Section 48 (2)	11
Omit “that Part”. Insert instead “that Division”.	12
[7] Section 99 Annual reports	13
Omit “authorised justices” from section 99 (2) (g).	14
Insert instead “authorised officers”.	15
4.69 Police Regulation 2000	16
Clause 43 Disposal of unclaimed property (except property relating to offence)	17
Omit the clause.	18
	19
	20
	21
	22

4.70 Poultry Meat Industry Act 1986 No 101	1
[1] Section 16 Search warrants	2
Omit section 16 (1). Insert instead:	3
(1) In this section:	4
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	5
	6
[2] Section 16 (2) and (3)	7
Omit “authorised justice” wherever occurring.	8
Insert instead “authorised officer”.	9
[3] Section 16 (4)	10
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	11
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
	13
4.71 Prevention of Cruelty to Animals Act 1979 No 200	14
[1] Section 27 Search warrant	15
Omit section 27 (1). Insert instead:	16
(1) In this section:	17
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	18
	19
[2] Section 27 (2) and (3)	20
Omit “authorised justice” wherever occurring.	21
Insert instead “authorised officer”.	22

[3] Section 27 (4)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[4] Section 27 (5)	5
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	6
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7 8
4.72 Property, Stock and Business Agents Act 2002 No 66	9
[1] Section 209 Search warrants	10
Insert “under this Act” after “authorised officer” in section 209 (1) and where firstly occurring in section 209 (2).	11 12
[2] Section 209 (1) and (2)	13
Omit “authorised justice” wherever occurring.	14
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	15 16
[3] Section 209 (3)	17
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	18
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19 20
[4] Section 209 (4)	21
Omit the subsection.	22

4.73	Protection of the Environment Operations Act 1997 No 156	1
[1]	Section 199 Search warrants	2
	Insert “under this Act” after “authorised officer” where occurring in section 199 (1) and where firstly occurring in section 199 (2).	3 4
[2]	Section 199 (1) and (2)	5
	Omit “authorised justice” wherever occurring.	6
	Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7 8
[3]	Section 199 (3)	9
	Omit the subsection. Insert instead:	10
	(3) Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies to a search warrant issued under this section.	11 12 13
[4]	Section 199 (4)	14
	Omit the definition of <i>authorised justice</i> .	15
4.74	Psychologists Act 2001 No 69	16
[1]	Section 128 Search warrants	17
	Omit “authorised justice” wherever occurring in section 128 (1) and (3). Insert instead “authorised officer”.	18 19
[2]	Section 128 (4)	20
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	21
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	22 23

[3] Section 128 (5)	1
Omit the subsection. Insert instead:	2
(5) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.75 Public Health Act 1991 No 10	6
[1] Section 72 Powers of entry	7
Omit “ <i>Search Warrants Act 1985</i> ” from section 72 (5).	8
Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	9
[2] Section 73 Search warrants	10
Omit section 73 (1). Insert instead:	11
(1) In this section:	12
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	13
	14
[3] Section 73 (2) and (3)	15
Omit “authorised justice” wherever occurring.	16
Insert instead “authorised officer”.	17
[4] Section 73 (4)	18
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20
	21

4.76 Public Lotteries Act 1996 No 86	1
[1] Section 72 Search warrant	2
Omit “authorised justice” wherever occurring in section 72 (1) and (2).	3
Insert instead “authorised officer”.	4
[2] Section 72 (3)	5
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	6
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
	8
[3] Section 72 (4)	9
Omit the subsection. Insert instead:	10
(4) In this section:	11
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	12
	13
4.77 Rail Safety Act 1993 No 50	14
[1] Section 75 Search warrants	15
Insert “under this Act” after “authorised officer” wherever occurring in section 75 (1), (2) and (4).	16
	17
[2] Section 75 (1) and (2)	18
Omit “authorised justice” wherever occurring.	19
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20
	21
[3] Section 75 (3)	22
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	23
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	24
	25

[4] Section 75 (4)	1
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[5] Section 75 (5)	5
Omit the subsection.	6
4.78 Registered Clubs Act 1976 No 31	7
Section 4 Definitions	8
Omit the definition of <i>authorised justice</i> . Insert instead:	9
<i>authorised justice</i> has the same meaning as <i>authorised officer</i> has in the <i>Law Enforcement (Powers and Responsibilities)</i> <i>Act 2002</i> .	10 11 12
4.79 Revenue Laws (Reciprocal Powers) Act 1987 No 86	13
[1] Section 7 Search warrants	14
Omit the definition of <i>authorised justice</i> from section 7 (1). Insert instead:	15
<i>authorised officer</i> has the same meaning as it has in the <i>Law</i> <i>Enforcement (Powers and Responsibilities) Act 2002</i> .	16 17
[2] Section 7 (2) and (3)	18
Omit “authorised justice” wherever occurring.	19
Insert instead “authorised officer”.	20
[3] Section 7 (5) and (6)	21
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ” wherever occurring.	22
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and</i> <i>Responsibilities) Act 2002</i> ”.	23 24

4.80	Road and Rail Transport (Dangerous Goods) Act 1997 No 113	1
[1]	Section 24 Obtaining a warrant	2
	Insert “under this Act” after “authorised officer” wherever occurring in section 24 (1).	3 4
[2]	Section 24 (1) and (2)	5
	Omit “authorised justice” wherever occurring.	6
	Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7 8
[3]	Section 24 (3)	9
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11 12
[4]	Section 24 (4)	13
	Omit the subsection.	14
4.81	Road Transport (General) Act 1999 No 18	15
[1]	Section 41 Search warrants	16
	Omit “authorised justice” wherever occurring in section 41 (1) and (2). Insert instead “authorised officer”.	17 18
[2]	Section 41 (3)	19
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	20
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	21 22
[3]	Section 41 (4)	23
	Omit “ <i>authorised justice</i> ”. Insert instead “ <i>authorised officer</i> ”.	24

[4] Section 41 (4)	1
Omit “ <i>Search Warrants Act 1985</i> ”.	2
Insert instead “ <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3
[5] Part 4, Division 1, Police powers	4
Omit the Division.	5
4.82 Road Transport (Safety and Traffic Management) Act 1999 No 20	6
[1] Part 2, Division 6, heading	7
Omit the heading.	8
Insert instead “ Division 6 Detention of vehicle for safe-keeping ”.	9
[2] Section 30 Power to prevent driving by persons who are under the influence of alcohol or other drugs	10
Omit the section.	11
Omit the section.	12
[3] Section 74 Road or road related area may be closed temporarily to traffic	13
Omit the section.	14
4.83 Roads Act 1993 No 33	15
[1] Section 174 Warrants of entry	16
Omit “authorised justice” wherever occurring in section 174 (1) and (2).	17
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	18
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	19
[2] Section 174 (2)	20
Omit “authorised officer named”.	21
Insert instead “authorised officer under this Act named”.	22

[3] Section 174 (3)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[4] Section 174 (4)	5
Omit the subsection.	6
4.84 Royal Commission (Police Service) Act 1994 No 60	7
[1] Section 15 Issue of search warrant	8
Omit “authorised justice” wherever occurring in section 15 (1), (4) and (5). Insert instead “authorised officer”.	9 10
[2] Section 15 (3)	11
Omit “authorised justices”. Insert instead “authorised officers”.	12
[3] Section 15 (5)	13
Omit the definition of <i>authorised justice</i> . Insert instead:	14
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	15 16
[4] Section 23 Application of provisions of the Law Enforcement (Powers and Responsibilities) Act 2002	17 18
Omit “Part 3 of the <i>Search Warrants Act 1985</i> (other than sections 16–20)”. Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> (other than sections 69–73)”.	19 20 21
[5] Section 23 (2)	22
Omit “Part 3 of the <i>Search Warrants Act 1985</i> so applies as if references in that Part”.	23 24
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> so applies as if references in that Division”.	25 26

4.85	Rural Lands Protection Act 1998 No 143	1
[1]	Section 196 Search warrant	2
	Insert “under this Act” after “authorised officer” wherever occurring in section 196 (1), (2) and (3).	3 4
[2]	Section 196 (1) and (3)	5
	Omit “authorised justice” wherever occurring.	6
	Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7 8
[3]	Section 196 (4)	9
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	10
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	11 12
[4]	Section 196 (5)	13
	Omit the subsection.	14
4.86	Security Industry Act 1997 No 157	15
[1]	Section 42 Search warrant	16
	Omit “authorised justice” wherever occurring in section 42 (1) and (2). Insert instead “authorised officer”.	17 18
[2]	Section 42 (3)	19
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	20
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	21 22

[3] Section 42 (5)	1
Omit the subsection. Insert instead:	2
(5) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.87 Smoke-free Environment Act 2000 No 69	6
[1] Section 16 Search warrants	7
Omit “authorised justice” wherever occurring in section 16 (1) and (2).	8
Insert instead “authorised officer”.	9
[2] Section 16 (3)	10
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	11
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
	13
[3] Section 16 (4)	14
Omit the subsection. Insert instead:	15
(4) In this section:	16
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	17
	18
4.88 Stock (Artificial Breeding) Act 1985 No 196	19
[1] Section 33 Search warrant	20
Omit section 33 (1). Insert instead:	21
(1) In this section:	22
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	23
	24

[2] Section 33 (2) and (3)	1
Omit “authorised justice” wherever occurring.	2
Insert instead “authorised officer”.	3
[3] Section 33 (4)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6
	7
4.89 Stock Medicines Act 1989 No 182	8
[1] Section 51 Search warrant	9
Omit “authorised justice” wherever occurring in section 51 (1) and (2).	10
Insert instead “authorised officer”.	11
[2] Section 51 (3)	12
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	13
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	14
	15
[3] Section 51 (4)	16
Omit the subsection. Insert instead:	17
(4) In this section:	18
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	19
	20
4.90 Summary Offences Act 1988 No 25	21
[1] Section 11C Custody of knife in public place or school	22
Insert “, education or training” after “occupation” in section 11C (2) (i).	23

[2] Section 21 Search warrant	1
Omit “authorised justice” wherever occurring in section 21 (1) and (2).	2
Insert instead “authorised officer”.	3
[3] Section 21 (3)	4
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	5
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	6
	7
[4] Section 21 (4)	8
Omit the subsection. Insert instead:	9
(4) In this section:	10
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	11
	12
[5] Part 5 Police powers for public protection in public places and schools	13
Omit the Part.	14
[6] Section 29A Penalty notices: custody of knives in public place or school and failure to comply with police directions	15
	16
Omit “or 28F” wherever occurring in section 29A (1) and (3).	17
4.91 Swimming Pools Act 1992 No 49	18
[1] Section 29 Search warrants may be issued by authorised officers	19
Omit “authorised justice” wherever occurring in section 29 (1) and (2).	20
Insert instead “authorised officer”.	21
[2] Section 29 (3)	22
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	23
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	24
	25

[3] Section 29 (4)	1
Omit “section 18 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[4] Section 29 (5)	5
Omit the subsection. Insert instead:	6
(5) In this section:	7
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.92 Taxation Administration Act 1996 No 97	10
[1] Section 77 Search warrant	11
Insert “under this Act” after “authorised officer” wherever occurring in section 77 (1) and (2).	12 13
[2] Section 77 (1) and (2)	14
Omit “authorised justice” wherever occurring.	15
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16 17
[3] Section 77 (4)	18
Omit the subsection.	19
4.93 Totalizator Act 1997 No 45	20
[1] Section 95 Search warrant	21
Omit “authorised justice” wherever occurring in section 95 (1) and (2).	22
Insert instead “authorised officer”.	23

[2] Section 95 (3)	1
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	2
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 95 (4)	5
Omit the subsection. Insert instead:	6
(4) In this section:	7
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	8 9
4.94 Tow Truck Industry Act 1998 No 111	10
[1] Section 83 Search warrants	11
Insert “under this Act” after “authorised officer” wherever occurring in section 83 (1) and (2).	12 13
[2] Section 83 (1) and (2)	14
Omit “authorised justice” wherever occurring.	15
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16 17
[3] Section 83 (3)	18
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20 21
[4] Section 83 (4)	22
Omit the definition of <i>authorised justice</i> .	23

4.95	Trade Measurement Administration Act 1989 No 234	1
[1]	Section 22 Search warrants	2
	Omit “authorised justice” wherever occurring in section 22 (1) and (2).	3
	Insert instead “authorised officer”.	4
[2]	Section 22 (3)	5
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	6
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7
		8
[3]	Section 22 (4)	9
	Omit the subsection. Insert instead:	10
	(4) In this section:	11
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	12
		13
4.96	Unlawful Gambling Act 1998 No 113	14
[1]	Section 40 Search warrant—suspected gambling premises	15
	Omit “authorised justice” wherever occurring in section 40 (1) and (2).	16
	Insert instead “authorised officer”.	17
[2]	Section 40 (3)	18
	Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	19
	Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	20
		21

[3] Section 40 (4)	1
Omit the subsection. Insert instead:	2
(4) In this section:	3
<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	4
	5
4.97 Water Management Act 2000 No 92	6
[1] Section 338 Search warrants	7
Insert “under this Act” after “authorised officer” wherever occurring in section 338 (1) and (2).	8
	9
[2] Section 338 (1) and (2)	10
Omit “authorised justice” wherever occurring.	11
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	12
	13
[3] Section 338 (3)	14
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	15
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	16
	17
[4] Section 338 (4)	18
Omit the subsection.	19
4.98 Workplace Injury Management and Workers Compensation Act 1998 No 86	20
	21
[1] Section 238A Search warrant	22
Insert “under this Act” after “authorised officer” wherever occurring in section 238A (1) and (2).	23
	24

[2] Section 238A (1) and (2)	1
Omit “authorised justice” wherever occurring.	2
Insert instead “authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	3 4
[3] Section 238A (3)	5
Omit “Part 3 of the <i>Search Warrants Act 1985</i> ”.	6
Insert instead “Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	7 8
[4] Section 238A (4)	9
Omit the definition of <i>authorised justice</i> .	10
[5] Section 238C Authorised officer may request assistance	11
Omit “section 18 of the <i>Search Warrants Act 1985</i> ” from section 238C (3).	12
Insert instead “section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> ”.	13 14

Schedule 5	Savings and transitional provisions	1
	(Section 241)	2
Part 1	General	3
1	Regulations	4
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: this Act	5 6 7
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	8 9
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	10 11 12
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	13 14 15
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	16 17 18
Part 2	Provisions consequent on enactment of this Act	19
2	Definitions	20
	In this Schedule:	21
	<i>repealed provision</i> means a provision repealed by Schedule 3 or 4.	22

3	General savings	1
(1)	Any act, matter or thing done or omitted to be done under a repealed provision and having any force or effect immediately before the commencement of a provision of this Act that replaces the repealed provision is, on that commencement, taken to be done under a corresponding provision of this Act.	2 3 4 5 6
(2)	Subclause (1) does not apply:	7
(a)	to the extent that its application would be inconsistent with another provision of this Schedule or a provision of a regulation in force under clause 1, or	8 9 10
(b)	to the extent that its application would be inappropriate in a particular case.	11 12
4	Construction of references to repealed provisions	13
(1)	Except as provided by this clause, a reference in any other Act, in any instrument made under any other Act or any other instrument of any other kind to a repealed provision is to be read as a reference to the provision of this Act that, having regard to the nature of the reference and the context in which the reference occurs, most nearly corresponds to the repealed provision.	14 15 16 17 18 19
(2)	The regulations may provide that a reference in any such instrument or a specified instrument to a repealed provision is to be read as a reference to another specified instrument (or a specified provision of such an instrument).	20 21 22 23
5	References to authorised justices	24
	A reference in any other Act, in any instrument made under any other Act or any other instrument of any other kind to an authorised justice under the <i>Search Warrants Act 1985</i> is to be read as a reference to an authorised officer within the meaning of this Act.	25 26 27 28
6	Property currently held in police custody	29
	Any property held in police custody immediately before the commencement of this clause is to be dealt with in accordance with the appropriate provisions of Part 17.	30 31 32