

I hereby certify that this PUBLIC BILL has finally passed the Legislative Assembly of Queensland.

Legislative Assembly Chamber, The Clerk of the Parliament.

Brisbane,

3 December 2021

In the name and on behalf of the Queen, I assent to this Bill.

Julie Young

Government House,

Brisbane,

3 DECEMBER

2021



Queensland

No. 24 of 2021

A BILL for

An Act to amend the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004, the Corrective Services Act 2006, the Corrective Services and Other Legislation Amendment Act 2020, the Corrective Services (COVID-19 Emergency Response) Regulation 2020, the Police Powers and Responsibilities Act 2000, the Police Powers and Responsibilities Regulation 2012, the Police Service Administration Act 1990, the Terrorism (Preventative Detention) Act 2005 and the Working with Children (Risk Management and Screening) Act 2000 for particular purposes



Queensland

Police Powers and Responsibilities and Other Legislation Amendment Bill 2021

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2021

A Bill

for

An Act to amend the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, the *Corrective Services Act 2006*, the *Corrective Services and Other Legislation Amendment Act 2020*, the *Corrective Services (COVID-19 Emergency Response) Regulation 2020*, the *Police Powers and Responsibilities Act 2000*, the *Police Powers and Responsibilities Regulation 2012*, the *Police Service Administration Act 1990*, the *Terrorism (Preventative Detention) Act 2005* and the *Working with Children (Risk Management and Screening) Act 2000* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Police Powers and Responsibilities and Other Legislation Amendment Act 2021*.

2 Commencement

- (1) The following provisions commence on a day to be fixed by proclamation—
 - (a) section 11(3);
 - (b) section 21;
 - (c) section 23(2).
- (2) The following sections commence on the day immediately after the expiry of the *Corrective Services Act 2006*, chapter 6, part 15B—
 - (a) section 11(4);
 - (b) section 23(3).

Part 2 **Amendment of Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004**

3 **Act amended**

This part amends the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

4 **Amendment of sch 1 (Prescribed offences)**

Schedule 1, item 6, entry for Criminal Code (Cwlth)—
insert—

- section 272.15A (“Grooming” person to make it easier to engage in sexual activity with a child outside Australia)
- section 471.25A (Using a postal or similar service to “groom” another person to make it easier to procure persons under 16)
- section 474.23A (Conduct for the purposes of electronic service used for child abuse material)
- section 474.25C (Using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16)
- section 474.27AA (Using a carriage service to “groom” another person to make it easier to procure persons under 16 years of age)

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Part 3 **Amendment of Corrective Services Act 2006**

5 **Act amended**

This part amends the *Corrective Services Act 2006*.

Note—

See also the amendments in schedule 1.

6 **Insertion of new 131A**

After section 131—

insert—

131A Wilfully and unlawfully killing or seriously injuring corrective services dog

- (1) A person, or a prisoner, must not wilfully and unlawfully kill or cause serious injury to a corrective services dog—
 - (a) that is being used by a corrective services officer in the performance of the officer's duties; or
 - (b) because of, or in retaliation for, its use by a corrective services officer in the performance of the officer's duties.

Maximum penalty—5 years imprisonment.

- (2) A person, or a prisoner, must not attempt to commit an offence against subsection (1).

Maximum penalty—5 years imprisonment.

- (3) An offence against subsection (1) or (2) is a crime.
- (4) A court that finds a person, or a prisoner, guilty of an offence against subsection (1) or (2) may, in addition to any penalty that may be imposed, order the person, or the prisoner, to pay to the

chief executive a reasonable amount for—

- (a) the treatment, care, rehabilitation and retraining of the corrective services dog concerned; or
 - (b) if it is necessary to replace the corrective services dog—buying and training the corrective services dog replacement.
- (5) In this section—

serious injury see the Criminal Code, section 242(3).

unlawfully means without authorisation, justification or excuse by law.

7 Insertion of new ch 5, pts 1AA and 1AB

Chapter 5, before part 1—

insert—

Part 1AA Preliminary

175B Definitions for chapter

In this chapter—

commissioner's report, about a no body-no parole prisoner, means a written report prepared by the commissioner containing—

- (a) a statement whether the prisoner has given any cooperation in relation to the homicide offence for which the prisoner is serving a sentence of imprisonment; and
- (b) if the prisoner has given any cooperation—an evaluation of—
 - (i) the nature, extent and timeliness of the prisoner's cooperation; and

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- (ii) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner in relation to the victim's location; and
- (iii) the significance and usefulness of the prisoner's cooperation.

cooperation, in relation to a homicide offence for which a no body-no parole prisoner is serving a sentence of imprisonment, means the cooperation given by the prisoner—

- (a) in the investigation of the homicide offence to identify the victim's location; and
- (b) before or after the prisoner was sentenced to imprisonment for the offence.

homicide offence, in relation to a no body-no parole prisoner, means any of the following offences—

- (a) an offence against any of the following provisions of the Criminal Code—
 - (i) section 236(2);
 - (ii) sections 302 and 305;
 - (iii) sections 303 and 310;
 - (iv) section 307;
 - (v) section 309;
 - (vi) section 314A;
- (b) an offence of becoming an accessory after the fact to an offence mentioned in paragraph (a)(i), (iii), (v) or (vi);
- (c) an offence of counselling or procuring the commission of, or conspiring to commit, an offence mentioned in paragraph (a) or (b);
- (d) for a prisoner serving a period of imprisonment in Queensland for an offence

against a law of another jurisdiction, having been transferred to Queensland under the *Prisoners (Interstate Transfer) Act 1982*—an offence against a law of another jurisdiction that substantially corresponds to an offence mentioned in paragraph (a), (b) or (c).

no body-no parole prisoner see section 175C.

no cooperation declaration see section 175L.

reconsideration application see section 175R(2).

restricted prisoner see section 175D.

restricted prisoner declaration see section 175E.

restricted prisoner report, for a restricted prisoner, means a report prepared by the chief executive about the prisoner under section 175F.

victim's location means—

- (a) the location, or the last known location, of every part of the body or remains of the victim of the offence; and
- (b) the place where every part of the body or remains of the victim of the offence may be found.

175C Meaning of *no body-no parole prisoner*

A prisoner is a ***no body-no parole prisoner*** if—

- (a) the prisoner is serving a period of imprisonment for a homicide offence; and
- (b) either—
 - (i) the body or remains of the victim of the offence have not been located; or
 - (ii) because of an act or omission of the prisoner or another person, part of the

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body or remains of the victim has not been located.

175D Meaning of *restricted prisoner*

A prisoner is a *restricted prisoner* if the prisoner has been sentenced to life imprisonment for—

- (a) a conviction of murder and the person killed was a child; or
- (b) more than 1 conviction of murder; or
- (c) 1 conviction of murder and another offence of murder was taken into account; or
- (d) a conviction of murder and the person has on a previous occasion been sentenced for another offence of murder.

Part 1AB Parole declarations

Division 1 Restricted prisoner declarations

175E Making restricted prisoner declaration

The president may make a declaration under this division (a *restricted prisoner declaration*) about a restricted prisoner.

175F Restricted prisoner report

- (1) The chief executive may, at any time during a restricted prisoner's period of imprisonment, give the president a restricted prisoner report about the prisoner that includes information the chief executive considers is relevant to any of the

matters mentioned in section 175H(2).

- (2) If the chief executive is given a notice under section 193AA(2), the chief executive must give the president a restricted prisoner report about the prisoner within 28 days after being given the notice.

175G If restricted prisoner report given to president

- (1) This section applies if the chief executive, under section 175F, gives the president a restricted prisoner report.
- (2) The president must—
 - (a) if a restricted prisoner declaration (the *current declaration*) is in force for the prisoner—decide whether to make a declaration (a *new declaration*) about the prisoner to take effect on the day immediately after the day the current declaration ends; or
 - (b) if there is no restricted prisoner declaration in force for the prisoner—decide whether to make a restricted prisoner declaration about the prisoner.
- (3) As soon as practicable after being given the restricted prisoner report, the president must give the restricted prisoner a written notice stating that—
 - (a) the president has received the report about the prisoner; and
 - (b) the president must decide—
 - (i) if a current declaration is in force for the prisoner—whether to make a new declaration; or

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- (ii) if there is no current declaration in force for the prisoner—whether to make a restricted prisoner declaration about the prisoner; and
 - (c) if a restricted prisoner declaration is made about the prisoner, the prisoner may not apply for parole under section 180 during the period stated in the declaration; and
 - (d) the prisoner may, within 21 days after the notice is given (the *stated period*)—
 - (i) give the president a written submission about the making of the declaration; and
 - (ii) ask the president to consider any material the prisoner considers relevant to the submission.
- (4) The president may extend the stated period if the president considers it reasonable in the circumstances.

175H Deciding to make restricted prisoner declaration

- (1) The president may make a restricted prisoner declaration about a restricted prisoner if the president is satisfied it is in the public interest to do so.
- (2) In considering the public interest the president must have regard to the following matters—
 - (a) the nature, seriousness and circumstances of the offence, or each offence, for which the prisoner was sentenced to life imprisonment;
 - (b) any risk the prisoner may pose to the public if the prisoner is granted parole;

- (c) the likely effect that the prisoner's release on parole may have on an eligible person or a victim.
- (3) Also, in deciding whether to make a restricted prisoner declaration the president must have regard to the following information—
 - (a) the restricted prisoner report about the prisoner;
 - (b) if an eligible person has, under section 188, at any time made a submission in relation to a parole application made by the prisoner—the submission;
 - (c) any relevant remarks made by a court in a proceeding against the prisoner for the offence for which the prisoner was sentenced to a term of life imprisonment;
 - (d) if the prisoner made a submission under section 175G(3)(d)—the submission.
- (4) Without limiting subsections (2) and (3), the president may have regard to any other matter or information the president considers relevant to the public interest.
- (5) If the president considers it reasonable in the circumstances, the president may—
 - (a) defer deciding whether to make the restricted prisoner declaration; and
 - (b) ask any person for further information or documents the president reasonably requires to decide whether to make the declaration.
- (6) The president must decide whether to make the restricted prisoner declaration within the following period—
 - (a) if the president has deferred making the decision under subsection (5)—150 days after receiving the restricted prisoner report;

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- (b) otherwise—120 days after receiving the restricted prisoner report.
- (7) A failure to make a decision within the period mentioned in subsection (6) does not affect the validity of the president's decision.
- (8) In this section—
victim see the *Victims of Crime Assistance Act 2009*, section 5.

175I If restricted prisoner declaration made

- (1) If the president makes a restricted prisoner declaration, the declaration must state—
 - (a) the reasons for the decision; and
 - (b) the day the declaration takes effect; and
 - (c) the day the declaration ends; and
 - (d) that the restricted prisoner may not apply for parole under section 180 while the declaration is in force; and
 - (e) if the prisoner's application for parole was deferred under section 193AA(2)—that the application for parole is refused.
- (2) The day the declaration takes effect must not be—
 - (a) if a restricted prisoner declaration is in force for the prisoner—a day before the current declaration ends; or
 - (b) otherwise—a day before the day the declaration is made.
- (3) The day the declaration ends must not be later than 10 years after the day the declaration takes effect.
- (4) In deciding the term of the declaration the president must—

- (a) be satisfied the term is in the public interest; and
 - (b) have regard to the matters mentioned in section 175H(2).
- (5) The president must give a copy of the declaration to—
- (a) the prisoner; and
 - (b) the chief executive; and
 - (c) the parole board.
- (6) In this section—
current declaration see section 175G(2).

175J If restricted prisoner declaration not made

- (1) This section applies if the president decides not to make a restricted prisoner declaration about a restricted prisoner.
- (2) As soon as practicable after making the decision the president must give written notice of the decision to—
 - (a) the prisoner; and
 - (b) the chief executive; and
 - (c) the parole board.
- (3) If the prisoner's application for parole was deferred under section 193AA(2), the notice given to the prisoner must state that the application is referred to the parole board for hearing and deciding under part 1, division 2.
- (4) Nothing in this section limits the president from considering whether to make a declaration about the prisoner if the president receives another restricted prisoner report under section 175F.

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Division 2 No cooperation declarations

175K Application of division

This division applies if—

- (a) a no body-no parole prisoner applies for a parole order under section 176 or 180; or
- (b) the parole board decides to consider whether a no body-no parole prisoner has given satisfactory cooperation.

175L Parole board may make no cooperation declaration

If the parole board is not satisfied a no body-no parole prisoner has given satisfactory cooperation, the parole board must make a declaration under this division (a ***no cooperation declaration***) about the prisoner.

Note—

See sections 176B, 180(2)(d) and 193A(2).

175M Parole board may request commissioner's report

- (1) This section applies if—
 - (a) a no body-no parole prisoner's application for a parole order is deferred under section 193A; or
 - (b) the parole board is given a notice under section 175S(4) or 175T(3); or
 - (c) at anytime after a no body-no parole prisoner begins to serve the prisoner's period of imprisonment, the parole board

decides to consider if the prisoner has given satisfactory cooperation.

- (2) Subject to subsection (3), the parole board must, by written notice, ask the commissioner for a commissioner's report about the prisoner.
- (3) If an appeal has been made to a court against the conviction or sentence to which the period of imprisonment relates, the parole board must not ask for a commissioner's report until the appeal is decided.
- (4) The written notice must state the day the parole board proposes to consider if the prisoner has given satisfactory cooperation (the *proposed hearing day*).
- (5) The commissioner must comply with the request by giving the parole board the commissioner's report at least 28 days before the proposed hearing day.
- (6) The parole board must give the chief executive a copy of the notice given to the commissioner.

175N Parole board must notify no body-no parole prisoner

- (1) This section applies if the parole board is given a commissioner's report under section 175M.
- (2) The parole board must give the no body-no parole prisoner a written notice stating that—
 - (a) the board has received a commissioner's report about the prisoner; and
 - (b) the board must consider whether to make a no cooperation declaration about the prisoner; and
 - (c) if a no cooperation declaration is made about the prisoner—the prisoner may not

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- apply for parole during the period the declaration continues in force; and
- (d) the prisoner may, within 21 days after the notice is given (the *stated period*)—
- (i) give the board a written submission about the making of the declaration; and
 - (ii) ask the board to consider any material the prisoner considers relevant to the submission.
- (3) The parole board may extend the stated period if the board considers it reasonable in the circumstances.

1750 Deciding if satisfactory cooperation

- (1) In deciding whether a no body-no parole prisoner has given satisfactory cooperation, the parole board—
- (a) must have regard to—
 - (i) the commissioner's report about the prisoner; and
 - (ii) any information the board has about the prisoner's capacity to give satisfactory cooperation; and
 - (iii) any relevant remarks made by the court that sentenced the prisoner to the term of imprisonment the prisoner is serving for the homicide offence; and
 - (iv) if the prisoner asks the board to consider a transcript of a proceeding against the prisoner for the homicide offence—the transcript; and
 - (b) may have regard to other information the board considers relevant.

(2) In this section—

transcript, of a proceeding, means a transcription of a record under the *Recording of Evidence Act 1962* of the proceeding.

175P If prisoner does not give satisfactory cooperation

- (1) This section applies if the parole board makes a no cooperation declaration about a no body-no parole prisoner.
- (2) The no cooperation declaration must state—
 - (a) the reasons the board is not satisfied the prisoner has given satisfactory cooperation; and
 - (b) the day of the board’s decision; and
 - (c) that the prisoner may not apply for parole under section 176 or 180 unless the prisoner is given a notice under section 175Q; and
 - (d) that the prisoner may, at any time, make a reconsideration application.
- (3) The parole board must, as soon as practicable after making the no cooperation declaration, give a copy of the declaration to—
 - (a) the prisoner; and
 - (b) the chief executive.
- (4) If the prisoner stops being a no body-no parole prisoner, the no cooperation declaration ends.

175Q If prisoner gives satisfactory cooperation

If the parole board is satisfied a no body-no parole prisoner has given satisfactory cooperation, the parole board must give the prisoner and the chief executive a written notice, stating—

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- (a) that the board is satisfied the prisoner has given the cooperation; and
- (b) the date of the decision; and
- (c) if a no cooperation declaration is in force for the prisoner—that the declaration is ended; and
- (d) that the prisoner may apply for parole under—
 - (i) section 176; or
 - (ii) if eligible—section 180.

175R Prisoner may make reconsideration application

- (1) This section applies if the parole board makes a no cooperation declaration about a no body-no parole prisoner.
- (2) At any time after the prisoner is given a copy of the no cooperation declaration made under section 175P, the prisoner may apply to the president or a deputy president (a ***reconsideration application***) asking the president or deputy president to call a meeting of the parole board to reconsider the board's decision to make the no cooperation declaration.
- (3) The reconsideration application must be in the approved form.
- (4) The application may state—
 - (a) whether the prisoner has given the police additional information; or
 - (b) whether there has been a material change in the prisoner's capacity to cooperate satisfactorily; or
 - (c) the reasons the prisoner considers it is appropriate to grant the application.

(5) In this section—

additional information, in relation to a no body-no parole prisoner, means information the prisoner has not previously given to the police in relation to the investigation of the homicide offence to identify the victim's location.

175S Deciding reconsideration application

- (1) This section applies if a no body-no parole prisoner makes a reconsideration application.
- (2) The president or deputy president must decide the application by granting or refusing it.
- (3) The president or deputy president may only grant the application if, after considering the application, the president or deputy president is satisfied—
 - (a) the prisoner has given the police information that the parole board may consider to be additional information; or
 - (b) there has been a change in the investigation of the homicide offence to identify the victim's location to justify the parole board's reconsideration; or

Example—

The president or deputy president is aware that another prisoner has provided information to identify the victim's location.

- (c) there has been a material change in the prisoner's capacity to cooperate; or
 - (d) for another reason, it would be appropriate in the interests of justice for the board to reconsider the prisoner's cooperation.
- (4) If the president or deputy president grants the reconsideration application, the president or deputy president must give a written notice to—

[s 7]

- (a) the prisoner; and
 - (b) the parole board; and
 - (c) the chief executive.
- (5) The notice given under subsection (4) to the prisoner must state that the parole board will reconsider the no cooperation declaration made about the prisoner.
- (6) If the president or deputy president refuses to grant the application, the president or deputy president must give the prisoner a written notice stating the prisoner's reconsideration application is refused.
- (7) In this section—
additional information see section 175R(5).

175T Discretion to call meeting to reconsider

- (1) The president or deputy president may, at any time after a no cooperation declaration is made about a prisoner, call a meeting of the parole board to reconsider the making of the declaration.
- (2) Without limiting subsection (1), in deciding whether to call the meeting, the president or deputy president may have regard to any of the matters mentioned in section 175S(3).
- (3) If the president or deputy president decides to call the meeting, the president or deputy president must give a written notice to—
 - (a) the prisoner; and
 - (b) the parole board; and
 - (c) the chief executive.
- (4) The notice given under subsection (3) to the prisoner must state that the parole board will reconsider the no cooperation declaration made

about the prisoner.

175U If reconsideration application granted or meeting called

- (1) As soon as practicable after receiving a notice under section 175S(4) or 175T(3), the board must meet and reconsider whether the prisoner has given satisfactory cooperation.
- (2) If the parole board decides the prisoner has given satisfactory cooperation, the board must give the prisoner a notice stating—
 - (a) that the no cooperation declaration in force for the prisoner is ended; and
 - (b) the prisoner may, subject to sections 176 and 180, apply for a parole order.
- (3) If the parole board decides the prisoner has not given satisfactory cooperation, the board must give the prisoner a notice stating that the no cooperation declaration continues in force for the prisoner.

8 Amendment of s 176 (Applying for an exceptional circumstances parole order)

Section 176(1), ‘A prisoner’—

omit, insert—

Subject to section 176B, a prisoner

9 Insertion of new ss 176A and 176B

After section 176—

insert—

[s 9]

176A Deciding applications made by restricted prisoner

- (1) This section applies if a restricted prisoner applies for an exceptional circumstances parole order and a restricted prisoner declaration is in force for the prisoner.
- (2) The parole board must refuse to make the parole order unless the board is satisfied—
 - (a) the prisoner, as a result of a diagnosed disease, illness or medical condition—
 - (i) is in imminent danger of dying and is not physically able to cause harm to another person; or
 - (ii) is incapacitated to the extent the prisoner is not physically able to cause harm to another person; and
 - (b) the prisoner has demonstrated that the prisoner does not pose an unacceptable risk to the public; and
 - (c) that the making of the parole order is justified in the circumstances.
- (3) If the parole board grants the prisoner parole, the board must give the chief executive written notice of the board's decision as soon as practicable after the decision is made.

176B Applications made by no body-no parole prisoner

A no body-no parole prisoner may not apply for exceptional circumstances parole if a no cooperation declaration is in force for the prisoner.

10 Amendment of s 180 (Applying for parole order etc.)

(1) Section 180(2)—

insert—

(ba) if the prisoner is a restricted prisoner and a restricted prisoner declaration is in force for the prisoner; or

(bb) if the prisoner is a no body-no parole prisoner and a no cooperation declaration is in force for the prisoner; or

(2) Section 180(2)(ba) to (c)—

renumber as section 180(2)(c) to (e).

11 Amendment of s 193 (Decision of parole board)

(1) Section 193, heading—

omit, insert—

193 Deciding parole applications—general

(2) Section 193—

insert—

(1A) If, at the time the application is made by the prisoner, the prisoner is both a no body-no parole prisoner and a restricted prisoner, the application must be decided under—

(a) section 193A; and

(b) if after deciding the application under section 193A, the parole board does not make a no cooperation declaration—section 193AA.

(3) Section 193—

insert—

(3A) Subsection (3) applies subject to chapter 6, part 15B.

[s 12]

- (4) Section 193(3A)—
omit.
- (5) Section 193(5A)(a), ‘12 months’—
omit, insert—
3 years
- (6) Section 193(6)—
omit.

12 Replacement of s 193A (Deciding particular applications where victim’s body or remains have not been located)

Section 193A—

omit, insert—

193A Deciding parole applications—no body-no parole prisoner

- (1) This section applies to a no body-no parole prisoner’s application for a parole order.
- (2) If a no cooperation declaration is in force for the prisoner, the board must refuse the application.
- (3) If the prisoner has been given a notice under section 175Q, the board must consider the application under section 193.
- (4) If subsections (2) and (3) do not apply, the parole board must defer the hearing of the application and request a commissioner’s report under section 175M(2).

193AA Deciding parole applications—restricted prisoner

- (1) This section applies in relation to a restricted prisoner’s application for a parole order.
- (2) Subject to subsection (3), as soon as practicable after receiving the application, the parole board

must—

- (a) give the president a notice stating that the prisoner has applied for parole; and
- (b) give the chief executive a notice stating—
 - (i) the board has deferred deciding the application until the board receives a notice from the president under section 175J(2)(c); and
 - (ii) under section 175F the chief executive must give the president a restricted prisoner report.
- (3) If the board has received a notice about the prisoner under section 175J(2)(c), the parole board may defer making a decision until it obtains any other information it considers necessary to make the decision.

Note—

See also section 193C(2).

- (4) If the application is deferred under subsection (2)(b) and the president makes a restricted prisoner declaration about the prisoner, the application is taken to have been refused by the parole board on the day the declaration is made.
- (5) If a restricted prisoner declaration is not in force for the prisoner, the parole board must refuse to grant the application unless the board is satisfied the prisoner does not pose an unacceptable risk to the public.

13 Insertion of new ss 229A to 229C

After section 229—

insert—

[s 13]

229A Functions of president

- (1) The president has the functions given to the president under this Act or another Act.
- (2) The president has the power to do all things necessary or convenient to be done for the performance of the president's functions.

229B Delegation of particular function of president

- (1) This section applies if the president considers that the president can not independently consider and decide whether to make a restricted prisoner declaration about a prisoner.
- (2) Without limiting subsection (1), the president must delegate the president's function under subsection (3) if the president becomes aware of a direct or an indirect interest the president has in relation to the prisoner that could conflict with the proper performance of the president's decision to make the declaration.
- (3) The president must delegate to a deputy president the function of the president under chapter 5, part 1AB.
- (4) In this section—
function includes power.
interest, in relation to a prisoner, includes a professional or familial interest.

229C Functions of deputy president

- (1) A deputy president has the functions given to the deputy president under this Act or another Act.
- (2) The deputy president has the power to do all things necessary or convenient to be done for the performance of the deputy president's functions.

14 Replacement of s 230 (Conduct of business)

Section 230—

omit, insert—

230 Conduct of business

Subject to this division

- (a) the president's consideration of whether to make a restricted prisoner declaration may be conducted in the way the president considers appropriate; and
- (b) the president's or a deputy president's consideration of a reconsideration application may be conducted in the way the president or the deputy president considers appropriate; and
- (c) the parole board may conduct its business, including its meetings, in the way it considers appropriate.

15 Amendment of s 233 (Meetings generally)

Section 233(2)—

omit, insert—

- (2) A meeting may be called by—
 - (a) if the meeting is called under section 175U—the president or a deputy president; or
 - (b) otherwise—the president or, in the absence of the president, a deputy president.

16 Amendment of s 234 (Meetings about particular matters relating to parole orders)

(1) Section 234(1) and (2)—

omit, insert—

[s 17]

- (1) This section applies if, at a meeting of the parole board, the board is to—
 - (a) consider a prescribed prisoner’s application for parole; or
 - (b) consider, under section 175M, if a no body-no parole prisoner has given satisfactory cooperation.
- (2) A matter mentioned in subsection (1) must not be considered at the meeting unless the following board members are present—
 - (a) the president, a deputy president or a professional board member;
 - (b) at least 1 community board member;
 - (c) at least 1 permanent board member.
- (2) Section 234(3) to (6)—
omit.
- (3) Section 234(7)—
renumber as section 234(3).

17 Insertion of new ch 5, pt 2, div 4A

Chapter 5, part 2—

insert—

Division 4A Publication of decisions

235A Parole board must publish particular information

- (1) The parole board must publish the information prescribed by regulation on the parole board’s website.
- (2) Without limiting subsection (1), a regulation may prescribe—

- (a) a decision or class of decision made by the president or the board about a class of prisoner; and
- (b) specified details of the decision.

18 Amendment of s 324A (Right of eligible persons to receive particular information)

- (1) Section 324A(1)—

insert—

- (e) for a no body-no parole prisoner—whether a no cooperation declaration is in force for the prisoner.

- (2) Section 324A(2)(a), ‘or (b)’—

omit, insert—

, (b) or (e)

19 Amendment of s 350 (Proceedings for offences)

- (1) Section 350, heading, after ‘offences’—

insert—

—general

- (2) Section 350(1), after ‘section 122’—

insert—

or 131A

20 Insertion of new ss 350A to 350C

After section 350—

insert—

350A Proceeding for offence against s 131A

- (1) A charge of an offence against section 131A must be heard and decided summarily if the

[s 20]

prosecution elects to have the charge heard and decided summarily.

- (2) A Magistrates Court that summarily deals with the charge for the offence—
 - (a) must be constituted by a magistrate; and
 - (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose; and
 - (c) may hear and decide the charge at any place appointed for holding a Magistrates Court within the district in which the accused person was arrested on the charge or served with the summons for the charge under the *Justices Act 1886*.
- (3) However, a Magistrates Court must abstain from dealing summarily with the charge if satisfied, on an application made by the prosecution and the defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.
- (4) If the Magistrates Court abstains from jurisdiction—
 - (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
 - (b) the proceeding for the charge must be conducted as a committal proceeding; and
 - (c) a plea of the defendant at the start of the hearing must be disregarded; and
 - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and

- (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.

350B Maximum penalty for offence against s 131A dealt with summarily

The maximum penalty that may be imposed on a summary conviction for an offence against section 131A is—

- (a) if the Magistrates Court is a court constituted by a magistrate imposing a drug and alcohol treatment order under the *Penalties and Sentences Act 1992*, part 8A—100 penalty units or 4 years imprisonment; or
- (b) otherwise—100 penalty units or 3 years imprisonment.

350C Appeal against decision to decide charge against s 131A summarily

- (1) This section applies if a person is summarily convicted or sentenced for an offence against section 131A.
- (2) The grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily.
- (3) The grounds on which the Attorney-General may appeal against the sentence include that the Magistrates Court erred by deciding the sentence summarily.
- (4) On an appeal against the sentence relying on a ground that the Magistrates Court erred by proceeding summarily, the court deciding the appeal may, if it decides to vary the sentence, impose the sentence the court considers

[s 21]

appropriate up to the maximum sentence that could have been imposed if the matter had been dealt with on indictment.

21 Insertion of new ch 6, pt 15B

Chapter 6—

insert—

Part 15B Temporary periods to decide particular parole applications

351G Application of part

Despite section 193(3), this part applies to—

- (a) an existing parole application; and
- (b) a new parole application.

351H Definitions for part

In this part—

existing parole application means an application for a parole order made under section 180—

- (a) received by the parole board before the commencement; and
- (b) that, immediately before the commencement, the parole board had not decided.

new parole application means an application for a parole order made under section 180 received by the parole board during the temporary extension period.

temporary extension period means the period of 180 days starting on the commencement.

351I Existing parole applications

The parole board must decide an existing parole application within the following period after the application was received by the board—

- (a) for a decision deferred under section 193(2)—210 days;
- (b) otherwise—180 days.

351J New parole applications

The parole board must decide a new parole application within the following period after receiving the application—

- (a) for a decision deferred under section 193(2)—210 days;
- (b) otherwise—180 days.

351K Expiry of part

This part expires on the day that is 390 days after the commencement.

351L Saving of operation of part

This part is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

22 Insertion of new ch 7A, pt 15

Chapter 7A—

insert—

Part 15

Transitional provisions for Police Powers and Responsibilities and Other Legislation Amendment Act 2021

490ZC Definition for part

In this part—

amending Act means the *Police Powers and Responsibilities and Other Legislation Amendment Act 2021*.

490ZD Application of ch 5, pts 1AA and 1AB

Chapter 5, parts 1AA and 1AB apply to a prisoner whether the prisoner was convicted of, or sentenced for, an offence before or after the commencement.

490ZE Existing applications for parole order

- (1) This section applies to an application for a parole order under section 176 or 180 made, but not decided, before the commencement.
- (2) From the commencement, the following sections and schedule 4, as amended or inserted by the amending Act, apply in relation to the application—
 - (a) chapter 5, parts 1AA and 1AB;
 - (b) sections 176A and 176B;
 - (c) section 180;
 - (d) sections 193 to 193AA;
 - (e) sections 229A to 229C;

- (f) section 234;
- (g) section 324A.

23 Amendment of sch 4 (Dictionary)

(1) Schedule 4—

insert—

additional information, for chapter 5, see section 175R(5).

commissioner's report, for chapter 5, see section 175B.

cooperation, for chapter 5, see section 175B.

current declaration see section 175G(2).

homicide offence, for chapter 5, see section 175B.

no body-no parole prisoner, for chapter 5, see section 175C.

no cooperation declaration, for chapter 5, see section 175L.

reconsideration application, for chapter 5, see section 175R(2).

restricted prisoner, for chapter 5, see section 175D.

restricted prisoner declaration, for chapter 5, see section 175E.

restricted prisoner report, for chapter 5, see section 175B.

victim's location, for chapter 5, see section 175B.

(2) Schedule 4—

insert—

existing parole application, for chapter 6, part 15B, see section 351H.

[s 24]

new parole application, for chapter 6, part 15B, see section 351H.

temporary extension period, for chapter 6, part 15B, see section 351H.

- (3) Schedule 4, definitions *existing parole application*, *new parole application* and *temporary extension period*—
omit.

Part 4 **Amendment of Corrective Services and Other Legislation Amendment Act 2020**

24 **Act amended**

This part amends the *Corrective Services and Other Legislation Amendment Act 2020*.

Note—

The legislation ultimately amended is the *Corrective Services Act 2006*.

25 **Amendment of s 2 (Commencement)**

Section 2(1)(a), ‘, 37(1), (2) and (4)’—

omit.

26 **Omission of s 37 (Amendment of s 234 (Meetings about particular matters relating to parole orders))**

Section 37—

omit.

Part 5 **Amendment of Corrective Services (COVID-19 Emergency Response) Regulation 2020**

27 **Regulation amended**

This part amends the *Corrective Services (COVID-19 Emergency Response) Regulation 2020*.

28 **Omission of s 4 (Modification of Corrective Services Act 2006, s 234 (Meetings about particular matters relating to parole orders))**

Section 4—
omit.

Part 6 **Amendment of Police Powers and Responsibilities Act 2000**

29 **Act amended**

This part amends the *Police Powers and Responsibilities Act 2000*.

Note—

See also the amendments in schedule 1.

30 **Amendment of s 21B (Power to inspect digital devices for the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004)**

(1) Section 21B(6), definition *prescribed internet offence*, paragraph (b), after fourth dot point—

insert—

- Section 474.23A

[s 31]

- (2) Section 21B(6), definition *prescribed internet offence*, paragraph (b), after fifth dot point—

insert—

- Section 474.25C

- (3) Section 21B(6), definition *prescribed internet offence*, paragraph (b), after seventh dot point—

insert—

- Section 474.27AA

31 Amendment of s 283 (Deciding application)

Section 283(2)(a)—

omit, insert—

- (a) the assumed identity is necessary for 1 or more of the following purposes—
- (i) an investigation or intelligence gathering in relation to criminal activity;
 - (ii) the training of persons for the purpose mentioned in subparagraph (i);
 - (iii) an administrative function in support of a purpose mentioned in subparagraph (i) or (ii);

32 Amendment of s 302 (Assumed identity may be acquired and used)

Section 302—

insert—

- (3) An authority also authorises—
- (a) the making (by the person to whom the authority applies) of any false or misleading representation about the person for the

purposes of, or in connection with, the acquisition or use of the assumed identity by the person; and

- (b) the use by the person of the assumed identity to obtain evidence of the identity.

33 Amendment of s 318 (Delegation—commissioner)

- (1) Section 318(1), from ‘deputy’ to ‘service’—

omit, insert—

senior officer

- (2) Section 318—

insert—

- (4) In this section—

senior officer means—

- (a) a deputy commissioner of the police service;
or
(b) an assistant commissioner of the police service; or
(c) a superintendent of the police service who is responsible for covert operations.

34 Amendment of ch 15, hdg (Powers and responsibilities relating to investigations and questioning for indictable offences)

Chapter 15, heading, ‘investigations and questioning for indictable offences’—

omit, insert—

particular investigations and questioning

[s 35]

35 Amendment of ch 15, pt 2, div 2, hdg (Removal of persons from lawful custody)

Chapter 15, part 2, division 2, heading, after ‘custody’—
insert—

in prison or detention centre

36 Amendment of s 399 (Application for removal of person from lawful custody)

Section 399, heading, after ‘custody’—
insert—

in prison or detention centre

37 Insertion of new ch 15, pt 2, div 3A

After section 411—
insert—

Division 3A Removal of persons from lawful custody to help police

411A Definitions for division

In this division—

assistance period see section 411F.

criminal activity means conduct that involves the commission of an offence by 1 or more persons.

police assistance removal order see section 411B(2).

relevant person see section 411B(2).

relevant police officer see section 411E(b).

411B Application for police assistance removal order

- (1) This section applies in relation to a person, other than a child, who—
 - (a) having been admitted to a watch-house, is taken to be in the commissioner’s custody under the *Corrective Services Act 2006*, section 8; and
 - (b) before being taken to a corrective services facility, wishes to provide information to help the police service to investigate an offence or gather intelligence in relation to criminal activity on the basis that the person is not a suspect for—
 - (i) the offence the subject of the investigation; or
 - (ii) an offence involved in the criminal activity; and
 - (c) is able to provide the information only by being removed from the watch-house and taken to a place that is not a police establishment.
- (2) A police officer may apply to a magistrate for an order (a ***police assistance removal order***) for the removal of the person in custody (the ***relevant person***) to the custody of a police officer to enable the person to provide information to help the police service investigate an offence or gather intelligence in relation to criminal activity.
- (3) Before making an application for a police assistance removal order, a police officer must obtain the approval of a police officer of at least the rank of detective superintendent.

Note—

See also sections 411C and 411D.

[s 37]

- (4) The application must be—
 - (a) made in person; and
 - (b) sworn and state the grounds on which the order is sought.
- (5) The magistrate may refuse to consider the application until the police officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

411C Consent of relevant person required

- (1) Before applying for a police assistance removal order, a police officer must obtain the written consent of the relevant person.
- (2) The police officer must inform the relevant person that the relevant person may seek legal advice before deciding whether to give consent to be removed to the custody of a police officer for the purposes of a police assistance removal order.
- (3) The relevant person's consent must also, if reasonably practicable, be electronically recorded by the police officer.
- (4) However, the relevant person may refuse to consent to the electronic recording of the consent.

411D Making, and effect, of police assistance removal order

- (1) A magistrate may make a police assistance removal order only if the magistrate is satisfied the relevant person has consented to be removed into the custody of a police officer for the

purposes of an investigation of an offence or intelligence gathering in relation to criminal activity on the basis that the person is not a suspect for—

- (a) the offence the subject of the investigation;
or
 - (b) an offence involved in the criminal activity.
- (2) If a police assistance removal order is made, the relevant person can not, during the assistance period, be questioned by a police officer about—
- (a) an offence the person has been charged with; or
 - (b) the commission of an offence the person is suspected of being involved in.

411E What police assistance removal order must state

A police assistance removal order must state the following—

- (a) the name of the relevant person and the watch-house in which the person is in custody;
- (b) the name of the police officer (the *relevant police officer*) who will have control of the relevant person while the person is absent from the watch-house;
- (c) that the watch-house manager must release or make arrangements for the release of the relevant person into the custody of the relevant police officer;
- (d) the reason for the relevant person's removal;
- (e) the places, if known, to which the relevant person is to be taken during the assistance period;

[s 37]

- (f) that the relevant person must be returned to the watch-house as soon as reasonably practicable after the assistance period ends or the relevant person withdraws consent to help the police service;
- (g) any other conditions the magistrate considers appropriate.

411F Assistance period

A police officer may keep a relevant person in custody under a police assistance removal order for no more than 8 hours (the *assistance period*), unless the assistance period is extended.

411G Application for extension of assistance period

- (1) A police officer may apply for an order extending the assistance period before the period ends.
- (2) The application must be made to—
 - (a) a magistrate; or
 - (b) a justice of the peace (magistrates court); or
 - (c) if there is no magistrate or justice of the peace (magistrates court) available—another justice of the peace other than a justice of the peace (commissioner for declarations).

411H Further consent of relevant person required

- (1) Before applying for an extension of the assistance period under section 411G, a police officer must obtain the further written consent of the relevant person to the extension of the assistance period.
- (2) The relevant person may seek legal advice before deciding whether to give consent to the extension

of the assistance period.

- (3) The relevant person's consent must also, if reasonably practicable, be electronically recorded by the police officer.
- (4) However, the relevant person may refuse to consent to the electronic recording of the consent.

411I When assistance period may be extended

- (1) A magistrate or justice may extend the assistance period for a relevant person if satisfied—
 - (a) the relevant person has given consent for the assistance period to be extended; and
 - (b) the extension of the assistance period is reasonably necessary.
- (2) An order may extend the assistance period for a reasonable time of not more than 8 hours.
- (3) There may be only 1 extension of the assistance period for a police assistance removal order.

411J Withdrawal of consent

- (1) A relevant person may withdraw consent to help the police service under this division at any time.
- (2) If a relevant person withdraws consent after the person is taken into custody under a police assistance removal order, the relevant police officer must return the person to the watch-house as soon as reasonably practicable.

38 Amendment of s 602C (Police officer may give initial police banning notice)

Section 602C(3)(a), examples—

insert—

[s 39]

- possessing a knife in contravention of the *Weapons Act 1990*, section 51

39 Amendment of s 612 (Assistance in exercising powers)

(1) Section 612(1), example 3—

omit.

(2) Section 612(1), example 4—

renumber as example 3.

40 Amendment of s 707 (Alternative to destruction if drug matter is thing used in the commission of a drug offence)

Section 707(3)—

omit, insert—

(3) For subsection (2), the commissioner may consider it appropriate that—

(a) drug matter that is a batch of a dangerous drug be disposed of by giving the drug matter to the chief executive (corrective services) for training purposes under the *Corrective Services Act 2006*, chapter 6, part 13A; or

(b) drug matter be disposed of by giving the drug matter to the chief executive officer, however described, of any of the following entities for the purposes of an illicit drug profiling program or project, however described—

(i) the Australian Federal Police;

(ii) a police service of another State;

(iii) an entity established under the law of the Commonwealth or a State to investigate corruption or crime.

41 Amendment of s 803 (Protection of methodologies)

Section 803(1), after ‘officer’—

insert—

or staff member

42 Amendment of schedule 6 (Dictionary)

(1) Schedule 6—

insert—

assistance period, for chapter 15, part 2, division 3A, see section 411F.

police assistance removal order, for chapter 15, part 2, division 3A, see section 411B(2).

relevant police officer, for chapter 15, part 2, division 3A, see section 411E(b).

staff member see the *Police Service Administration Act 1990*, section 1.4.

(2) Schedule 6, definition *criminal activity*—

insert—

(c) for chapter 15, part 2, division 3A, see section 411A.

(3) Schedule 6, definition *enforcement act*—

insert—

(fa) the custody of a person under a police assistance removal order;

(4) Schedule 6, definition *relevant person*—

insert—

(da) for chapter 15, part 2, division 3A—see section 411B(2); or

(5) Schedule 6, definition *relevant person*, paragraphs (da) to (f)—

[s 43]

renumber as paragraphs (e) to (g).

Part 7 Amendment of Police Powers and Responsibilities Regulation 2012

43 Regulation amended

This part amends the *Police Powers and Responsibilities Regulation 2012*.

Note—

See also the amendments in schedule 1.

44 Amendment of sch 9, s 14 (Security of facilities used under a surveillance device warrant)

(1) Schedule 9, section 14, heading, after ‘of’—

insert—

monitoring premises and

(2) Schedule 9, section 14(1)—

omit, insert—

(1) This section applies to premises (the ***monitoring premises***) containing monitoring equipment being used under a surveillance device warrant.

(3) Schedule 9, section 14(2), after ‘The’—

insert—

monitoring

(4) Schedule 9, section 14(3), ‘The’—

omit, insert—

An

-
- (5) Schedule 9, section 14(3)(a) and (b), ‘premises’, first mention—

omit, insert—

monitoring premises

- (6) Schedule 9, section 14(3)(b)(v)—

omit, insert—

(v) an authorised monitor;

(vi) any other person the authorised person permits to be in the premises for helping in the investigation.

- (7) Schedule 9, section 14—

insert—

- (5) In this section—

authorised monitor, in relation to monitoring premises containing monitoring equipment being used under a surveillance device warrant, means a person authorised by the senior officer to whom the warrant was issued to use the equipment whether or not a police officer is present while the person is using the equipment.

authorised person, in relation to monitoring premises containing monitoring equipment being used under a surveillance device warrant, means—

(a) the senior officer to whom the warrant was issued; or

(b) a law enforcement officer authorised by the senior officer to use the equipment.

monitoring equipment means equipment used to electronically monitor and record information obtained through the use of a surveillance device.

[s 45]

45 Insertion of new sch 9, s 47A

Schedule 9, after section 47—

insert—

47A Custody of person under police assistance removal order—Act, 679(1)

The following information about the custody of a person (the *relevant person*) under a police assistance removal order must be included in the register of enforcement acts—

- (a) when and where the order was made;
- (b) the name of the relevant person;
- (c) the watch-house from which the relevant person was taken into custody under the order;
- (d) the time the relevant person was taken into custody under the order;
- (e) each place to which the relevant person was taken under the order;
- (f) the time the relevant person was returned to the watch-house.

Part 8 Amendment of Police Service Administration Act 1990

46 Act amended

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

47 Amendment of s 1.4 (Definitions)

Section 1.4—

insert—

unlawfully means without authorisation,

justification or excuse by law.

48 Amendment of s 10.21B (Killing or injuring police dogs and police horses)

(1) Section 10.21B, heading, ‘Killing’

omit, insert—

Unlawfully killing

(2) Section 10.21B(1), ‘, without lawful excuse’—

omit, insert—

unlawfully

49 Insertion of new s 10.21BA

After section 10.21B—

insert—

10.21BA Wilfully and unlawfully killing or seriously injuring police dog or police horse

(1) A person must not wilfully and unlawfully kill or cause serious injury to a police dog or police horse—

(a) that is being used by a police officer in the performance of the officer’s duties; or

(b) because of, or in retaliation for, its use by a police officer in the performance of the officer’s duties.

Maximum penalty—5 years imprisonment.

(2) A person must not attempt to commit an offence against subsection (1).

Maximum penalty—5 years imprisonment.

(3) An offence against subsection (1) or (2) is a crime.

(4) A court that finds a person guilty of an offence

[s 50]

against subsection (1) or (2) may, in addition to any penalty that may be imposed, order the person to pay to the commissioner a reasonable amount for—

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

(5) In this section—

serious injury see the Criminal Code, section 242(3).

50 Amendment of s 10.23 (Proceedings for offences)

(1) Section 10.23, heading, after ‘offences’—

insert—

—general

(2) Section 10.23(1), ‘Proceedings’—

omit, insert—

Subject to section 10.23A, proceedings

(3) Section 10.23(1)(a), ‘or 10.20’—

omit, insert—

, 10.20, 10.21B or 10.21BA

(4) Section 10.23(3), after ‘Act’—

insert—

, other than an offence against section 10.21BA,

51 Insertion of new ss 10.23A to 10.23C

After section 10.23—

insert—

10.23A Proceeding for offence against s 10.21BA

- (1) A charge of an offence against section 10.21BA must be heard and decided summarily if the prosecution elects to have the offence heard and decided summarily.
- (2) A Magistrates Court that summarily deals with the charge for the offence—
 - (a) must be constituted by a magistrate; and
 - (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose; and
 - (c) may hear and decide the charge at any place appointed for holding a Magistrates Court within the district in which the accused person was arrested on the charge or served with the summons for the charge under the *Justices Act 1886*.
- (3) However, a Magistrates Court must abstain from dealing summarily with the charge if satisfied, on an application made by the prosecution and the defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.
- (4) If the Magistrates Court abstains from jurisdiction—
 - (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
 - (b) the proceeding for the charge must be conducted as a committal proceeding; and
 - (c) a plea of the defendant at the start of the hearing must be disregarded; and

[s 51]

- (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
- (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.

10.23B Maximum penalty for offence against s 10.21BA dealt with summarily

The maximum penalty that may be imposed on a summary conviction for an offence against section 10.23A is—

- (a) if the Magistrates Court is a court constituted by a magistrate imposing a drug and alcohol treatment order under the *Penalties and Sentences Act 1992*, part 8A—100 penalty units or 4 years imprisonment; or
- (b) otherwise—100 penalty units or 3 years imprisonment.

10.23C Appeal against decision to decide charge against s 10.21BA summarily

- (1) This section applies if a person is summarily convicted or sentenced for an offence against section 10.21BA.
- (2) The grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily.
- (3) The grounds on which the Attorney-General may appeal against the sentence include that the Magistrates Court erred by deciding the sentence summarily.
- (4) On an appeal against the sentence relying on a ground that the Magistrates Court erred by

proceeding summarily, the court deciding the appeal may, if it decides to vary the sentence, impose the sentence the court considers appropriate up to the maximum sentence that could have been imposed if the matter had been dealt with on indictment.

Part 9

Amendment of Working with Children (Risk Management and Screening) Act 2000

52 Act amended

This part amends the *Working with Children (Risk Management and Screening) Act 2000*.

53 Amendment of sch 2 (Current serious offences)

- (1) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 273.5—

omit.

- (2) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 471.16—

omit.

- (3) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 471.17—

omit.

- (4) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 474.19—

omit.

- (5) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 474.20—

omit.

[s 53]

(6) Schedule 2, item 6, entry for Criminal Code (Cwlth)—
insert—

- 270.3 Slavery offences
- 270.6A Forced labour offences
- 270.7B Forced marriage offences
- 270.7C Offence of debt bondage
- 271.2 Offence of trafficking in persons
- 271.3 Trafficking in persons—aggravated offence
- 271.5 Offence of domestic trafficking in persons
- 271.6 Domestic trafficking in persons—aggravated offence
- 271.7B Offence of organ trafficking—entry into and exit from Australia
- 271.7C Organ trafficking—aggravated offence
- 271.7D Offence of domestic organ trafficking
- 271.7E Domestic organ trafficking—aggravated offence
- 271.7F Harboursing a victim
- 271.7G Harboursing a victim—aggravated offence

272.15A “Grooming” person to make it easier to engage in sexual activity with a child outside Australia

274.2 Torture

471.25A Using a postal or similar service to “groom” another person to make it easier to procure persons under 16

474.23A Conduct for the purposes of electronic service used for child abuse material

474.25C Using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16

474.27AA Using a carriage service to “groom” another person to make it easier to procure persons under 16 years of age

(7) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 270.7, column 2, ‘Deceptive recruiting for sexual services’—

omit, insert—

Deceptive recruiting for labour or services

(8) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 272.10, column 2, ‘Aggravated offence—child with mental impairment or under care, supervision or authority of defendant’—

omit, insert—

[s 54]

Aggravated offence—sexual intercourse or other sexual activity with child outside Australia

- (9) Schedule 2, item 6, entry for Criminal Code (Cwlth), entry for section 474.25B, column 2, ‘Aggravated offence—child with mental impairment or under care, supervision or authority of defendant’—

omit, insert—

Aggravated offence—using a carriage service for sexual activity with person under 16 years of age

54 Amendment of sch 3 (Repealed or expired serious offences)

Schedule 3, item 3, entry for Criminal Code (Cwlth)—

insert—

270.7	Deceptive recruiting for sexual services	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013</i> (Cwlth)
272.10	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant	as the provision was in force from time to time before its amendment by the <i>Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020</i> (Cwlth)

273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
471.16	Using a postal or similar service for child pornography material	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
474.19	Using a carriage service for child pornography material	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)

[s 55]

474.25B	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant	as the provision was in force from time to time before its amendment by the <i>Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020</i> (Cwlth)
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55 Amendment of sch 4 (Current disqualifying offences)

- (1) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 270.7—
omit.
- (2) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 273.5—
omit.
- (3) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 471.16—
omit.
- (4) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 471.17—
omit.
- (5) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 474.19—
omit.
- (6) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 474.20—
omit.
- (7) Schedule 4, item 5, entry for Criminal Code (Cwlth)—
insert—

270.3	Slavery offences	if the offence was committed against a child
270.6A	Forced labour offences	if the offence was committed against a child
270.7	Deceptive recruiting for labour or services	if the offence was committed against a child
270.7B	Forced marriage offences	if the offence was committed against a child
270.7C	Offence of debt bondage	if the offence was committed against a child
271.2	Offence of trafficking in persons	if the offence was committed against a child
271.3	Trafficking in persons—aggravated offence	if the offence was committed against a child
271.5	Offence of domestic trafficking in persons	if the offence was committed against a child
271.6	Domestic trafficking in persons—aggravated offence	if the offence was committed against a child
271.7C	Organ trafficking—aggravated offence	only if an offender was or could have been liable as mentioned in section 271.7C(1)(a)
271.7E	Domestic organ trafficking—aggravated offence	only if an offender was or could have been liable as mentioned in section 271.7E(1)(a)
271.7G	Harbouring a victim—aggravated offence	

[s 55]

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| 272.15A | “Grooming” person to make it easier to engage in sexual activity with a child outside Australia | |
| 274.2 | Torture | if the offence was committed against a child |
| 471.25A | Using a postal or similar service to “groom” another person to make it easier to procure persons under 16 | |
| 474.23A | Conduct for the purposes of electronic service used for child abuse material | |
| 474.25C | Using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16 | |
| 474.27AA | Using a carriage service to “groom” another person to make it easier to procure persons under 16 years of age | |
- (8) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 272.10, column 2, ‘Aggravated offence—child with mental impairment or under care, supervision or authority of defendant’—
omit, insert—
Aggravated offence—sexual intercourse or other sexual activity with child outside Australia
- (9) Schedule 4, item 5, entry for Criminal Code (Cwlth), entry for section 474.25B, column 2, ‘Aggravated offence—child with

mental impairment or under care, supervision or authority of defendant’—

omit, insert—

Aggravated offence—using a carriage service for sexual activity with person under 16 years of age

56 Amendment of sch 5 (Repealed or expired disqualifying offences)

Schedule 5, item 3, entry for Criminal Code (Cwlth)—

insert—

270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8, as the provisions were in force from time to time before their repeal by the <i>Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013</i> (Cwlth)
272.10	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant	as the provision was in force from time to time before its amendment by the <i>Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020</i> (Cwlth)

[s 56]

273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
471.16	Using a postal or similar service for child pornography material	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
474.19	Using a carriage service for child pornography material	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)

474.25B	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant	as the provision was in force from time to time before its amendment by the <i>Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020</i> (Cwlth)
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Part 10 Other amendments

57 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 57

Corrective Services Act 2006

1 Section 306C(b), ‘0.2g’—

omit, insert—

0.02g

Police Powers and Responsibilities Act 2000

1 Section 419(4), ‘Aborigine, a Torres Strait Islander’—

omit, insert—

Aboriginal person, Torres Strait Islander person

2 Section 419(4), note, ‘people and Torres Strait Islanders’—

omit, insert—

peoples and Torres Strait Islander peoples

3 Section 420, heading, ‘people and Torres Strait Islanders’—

omit, insert—

peoples and Torres Strait Islander peoples

- 4 Section 420(1)(b), ‘Aborigine or Torres Strait Islander’—**
omit, insert—
Aboriginal person or Torres Strait Islander person
- 5 Schedule 6, definition *support person*, paragraph (a), ‘Aborigine or Torres Strait Islander’—**
omit, insert—
Aboriginal person or Torres Strait Islander person
- 6 Schedule 6, definition *support person*, paragraph (b)(v), ‘Aborigine or a Torres Strait Islander’—**
omit, insert—
Aboriginal person or a Torres Strait Islander person

Police Powers and Responsibilities Regulation 2012

- 1 Schedule 9, section 25, heading, ‘people and Torres Strait Islanders’—**
omit, insert—
peoples and Torres Strait Islander peoples
- 2 Schedule 9, section 25(1), ‘or Torres Strait Islander’—**
omit, insert—
or Torres Strait Islander person
- 3 Schedule 9, section 33(3)(b)(iii), ‘Islander’—**
omit, insert—
Islander person

Terrorism (Preventative Detention) Act 2005

1 Section 46(12), ‘section 60(2)’—

omit, insert—

section 60(3)

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