

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

*Legislative Assembly Chamber,
Brisbane,*

The Clerk of the Parliament.

25 March 20 22

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

Chris King
Government House,

Brisbane, 25th March

20 22



Queensland

No. 4 of 2022

A BILL for

An Act to amend the Oaths Act 1867, the Police Powers and Responsibilities Act 2000, the Police Service Administration Act 1990, the Police Service Administration Regulation 2016 and the Weapons Act 1990, and to make a regulation under the Oaths Act 1867, for particular purposes



Queensland

Police Legislation (Efficiencies and Effectiveness) Amendment Bill 2022

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2022

A Bill

for

An Act to amend the Oaths Act 1867, the Police Powers and Responsibilities Act 2000, the Police Service Administration Act 1990, the Police Service Administration Regulation 2016 and the Weapons Act 1990, and to make a regulation under the Oaths Act 1867, for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Police Legislation (Efficiencies and Effectiveness) Amendment Act 2022*.

2 Commencement

Parts 2 and 7 and schedule 1 commence on a day to be fixed by proclamation.

Part 2 Amendment of Oaths Act 1867

3 Act amended

This part amends the *Oaths Act 1867*.

4 Insertion of new s 43A

After section 43—

insert—

43A Regulation made by Police Legislation (Efficiencies and Effectiveness) Amendment Act 2022

- (1) This section applies to the regulation made by the *Police Legislation (Efficiencies and Effectiveness) Amendment Act 2022*.
- (2) The regulation is subordinate legislation.
- (3) The *Statutory Instruments Act 1992*, part 6 does not apply to the regulation.

Part 3 Amendment of Police Powers and Responsibilities Act 2000

5 Act amended

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

6 Amendment of s 53BAC (Police powers for giving official warning for consorting)

- (1) Section 53BAC(6)(b), ‘means’—
omit, insert—
communication
- (2) Section 53BAC(9), definitions *electronic means* and *SMS message*—
omit.
- (3) Section 53BAC(9), definition *prescribed way*, paragraph (b), ‘means’—
omit, insert—
communication

7 Amendment of s 149A (Definitions for chapter)

Section 149A—
insert—

crime scene threshold offence means—

- (a) an indictable offence for which the maximum penalty is at least 4 years imprisonment; or
- (b) an offence involving deprivation of liberty.

[s 8]

8 Amendment of s 154A (Order after digital device has been seized)

(1) Section 154A(1)—

omit, insert—

(1) This section applies if—

(a) a digital device is seized under a search warrant and removed from a place, and either—

(i) the search warrant did not contain an order made under section 154(1) or (2); or

(ii) the search warrant contained an order made under section 154(1) or (2) but further access information is required for a police officer to gain access to device information from the device that may be relevant evidence; or

(b) a digital device is otherwise lawfully seized under this Act, other than under section 176(1)(j), and removed from a place.

(2) Section 154A(3)(a) and (b)—

omit, insert—

(a) may be made at any time after the digital device has been seized; and

(b) must be made—

(i) if the digital device was seized under a search warrant issued by a Supreme Court judge—to a Supreme Court judge; or

(ii) otherwise—to a magistrate.

(3) Section 154A(5)—

omit, insert—

(5) A magistrate or a judge (the *judicial officer*) may

make an order under subsection (2) only if—

- (a) for a digital device seized under a search warrant issued by a magistrate or judge—the judicial officer is satisfied there are reasonable grounds for suspecting that device information from the digital device may be relevant evidence; or
- (b) otherwise—the judicial officer is satisfied there are reasonable grounds for suspecting that device information from the digital device may be evidence of—
 - (i) a crime scene threshold offence; or
 - (ii) an offence against any of the following sections of the Criminal Code—
 - section 223
 - section 227A
 - section 227B.

9 Amendment of s 163A (Definitions for part)

Section 163A, definition *crime scene threshold offence*—
omit.

10 Amendment of s 599 (Coroner’s search warrant)

Section 599(3), ‘other electronic means’—
omit, insert—
electronic communication

11 Amendment of s 801 (Steps after issue of prescribed authority)

- (1) Section 801(1)(a)—
omit, insert—

[s 11]

- (a) if it is reasonably practicable to give a copy of the prescribed authority to the police officer or law enforcement officer by electronic communication—immediately give the copy to the police officer or law enforcement officer by electronic communication; and
- (2) Section 801(2), ‘fax a copy to the police officer or law enforcement officer’—
omit, insert—
give a copy of the prescribed authority to the police officer or law enforcement officer by electronic communication
- (3) Section 801(3)—
omit, insert—
 - (3) To remove doubt, it is declared that the copy of the prescribed authority given under subsection (1)(a), or the prescribed authority form properly completed by the police officer or law enforcement officer—
 - (a) is, and is taken always to have been, of the same effect as the prescribed authority signed by the issuer; and
 - (b) authorises the entry and the exercise of the other powers stated in the prescribed authority issued by the issuer.
- (4) Section 801(4)(a)—
omit, insert—
 - (a) if section 800(4) applies in relation to the application for the prescribed authority—
 - (i) for an application that is electronically sworn—a copy of the sworn application; or
 - (ii) otherwise—the sworn application; and

(5) Section 801(6)—

omit.

(6) Section 801(7)—

renumber as section 801(6).

(7) Section 801—

insert—

(7) In this section—

electronically sworn, in relation to an application for a prescribed authority, means the affidavit, that forms part of the application, is made and signed under the *Oaths Act 1867*, section 16C(2) or 31F.

12 Amendment of sch 6 (Dictionary)

(1) Schedule 6—

insert—

data includes the whole or part of a computer program within the meaning of the *Copyright Act 1968* (Cwlth).

electronic communication means—

- (a) a communication of information in the form of data, text or images by guided or unguided electromagnetic energy, including, for example, by email, multimedia message or SMS message; or
- (b) a communication of information in the form of sound by guided or unguided electromagnetic energy, if the sound is processed at its destination by an automated voice recognition system.

SMS message means a text message sent using the mobile phone service known as the short messaging service.

[s 13]

- (2) Schedule 6, definition *crime scene threshold offence*, ‘part 3, see section 163A’—

omit, insert—

see section 149A

Part 4 Amendment of Police Service Administration Act 1990

13 Act amended

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

14 Amendment of s 1.4 (Definitions)

Section 1.4—

insert—

saliva analysing instrument, for part 5A, see section 5A.2.

15 Amendment of s 5.16 (Special constables)

- (1) Section 5.16(2)(c), after ‘officer’—

insert—

, under this Act or another Act,

- (2) Section 5.16—

insert—

- (2A) Subject to subsection (2), other Acts apply to a special constable as if the special constable were an officer.

- (3) Section 5.16(3), ‘Subject’—

omit, insert—

Also, subject

- (4) Section 5.16(2A) and (3)—
renumber as section 5.16(3) and (4).

16 Amendment of s 5.17 (Authorisation of non-State police officers)

- (1) Section 5.17(2)—
omit, insert—
- (2) The commissioner may authorise the non-State police officer to exercise the powers of a police officer under—
- (a) the police Acts specified in the authorisation; or
- (b) all police Acts.
- (2) Section 5.17(8), ‘The Police Act’—
omit, insert—
- Each empowering Act
- (3) Section 5.17(9), ‘the Police Act’—
omit, insert—
- each empowering Act
- (4) Section 5.17(15)—
insert—
- (ca) the empowering Acts under the authorisations;
- (5) Section 5.17(15)(ca) to (e)—
renumber as section 5.17(15)(d) to (f).
- (6) Section 5.17(17)—
insert—
- empowering Act*** means—

[s 17]

- (a) for an authorisation under subsection (2)(a)—a police Act specified in the authorisation; or
- (b) for an authorisation under subsection (2)(b)—a police Act.

police Act means a Queensland Act that confers a power on a police officer.

17 **Amendment of s 5A.2 (Definitions for pt 5A)**

- (1) Section 5A.2, definition *critical incident*—
omit.

- (2) Section 5A.2—
insert—

critical incident means any of the following—

- (a) an incident in which an officer on duty discharges a firearm—
 - (i) injuring a person; or
 - (ii) in circumstances in which a person could be injured;
- (b) an incident in which a person in custody dies or suffers grievous bodily harm;
- (c) a workplace incident at a police station or police establishment in which a person—
 - (i) dies or suffers grievous bodily harm; or
 - (ii) suffers injuries for which the person is admitted to hospital;
- (d) an incident in which a person dies or suffers grievous bodily harm in the course of, or as a result of, police operations;

Examples of police operations—

- a vehicle pursuit

- an evacuation

(e) a vehicle pursuit in which a person suffers injuries for which the person is admitted to hospital.

firearm does not include a firearm loaded with a projectile that is not designed to cause death or grievous bodily harm.

Examples of a projectile that is not designed to cause death or grievous bodily harm—

beanbag round, 40mm impact round

grievous bodily harm see the Criminal Code, section 1.

saliva analysing instrument means an instrument, prescribed by regulation, for finding out whether a targeted substance is present in a person's saliva by analysing a specimen of the person's saliva.

vehicle pursuit means a police motor vehicle pursuit for the purpose of apprehending a person.

(3) Section 5A.2, definition *evidence*, after 'urine'—

insert—

or saliva

(4) Section 5A.2, definition *targeted substance test*, after 'urine'—

insert—

or saliva

18 Replacement of s 5A.4A (Analysts)

Section 5A.4A—

omit, insert—

5A.4A Analysts

The Minister may, by gazette notice, appoint an

[s 19]

appropriately qualified person as an analyst for this part.

5A.4B Operators of saliva analysing instruments

(1) The commissioner may authorise an appropriately qualified officer or staff member to operate a saliva analysing instrument under section 5A.14.

(2) An authorisation may be—

(a) general or limited; and

Example—

An authorisation may be limited to operating a saliva analysing instrument to analyse samples given by relevant persons of a stated class.

(b) given on the conditions the commissioner considers appropriate.

19 Amendment of s 5A.12 (Targeted substance levels)

Section 5A.12(1) and (3), after ‘urine’—

insert—

or saliva

20 Replacement of ss 5A.14 and 5A.15

Sections 5A.14 and 5A.15—

omit, insert—

5A.14 Providing specimen for targeted substance test

(1) If a relevant person is required to submit to a targeted substance test under this part, an authorised person may require the relevant person to provide a specimen of urine or saliva to an authorised tester, at a stated time and place, for the test.

- (2) If the specimen is required because of section 5A.13(1)(a)(i), the requirement must be made, and the stated time for providing the specimen must be, as soon as practicable after the critical incident happened.
- (3) An authorised tester may give the relevant person a direction about how the specimen is to be provided or about providing a sufficient specimen for testing.
- (4) However, a direction must be—
 - (i) reasonably necessary; and
 - (ii) consistent with any requirements prescribed under subsection (6).
- (5) As soon as practicable after a specimen is collected under this section, the specimen must be dealt with in the way prescribed under subsection (6).
- (6) A regulation may prescribe requirements about collecting and dealing with specimens under this section.
- (7) In this section—

authorised tester means—

 - (a) for a specimen of urine given by a relevant person—a doctor or registered nurse; or
 - (b) for a specimen of saliva given by a relevant person—an officer or staff member authorised under section 5A.4A to operate a saliva analysing instrument to analyse a sample given by the relevant person.

registered nurse means a person registered under the Health Practitioner Regulation National Law—

- (a) to practise in the nursing profession, other than as a student; and

[s 21]

- (b) in the registered nurses division of that profession.

5A.15 Effect of failure to provide a specimen

- (1) This section applies to a relevant person who—
 - (a) is required to provide a specimen of urine or saliva under section 5A.14; and
 - (b) fails to provide a specimen in compliance with the requirement and any directions given by an authorised tester under that section.
- (2) However, this section does not apply to a relevant person who is unable to provide the required specimen because of a medical condition.
- (3) The relevant person is taken to have been tested for a targeted substance and to have been found to have had evidence of a targeted substance in the person's saliva or urine (whichever is relevant).

21 Amendment of s 5A.16 (If alcohol or targeted substance test positive)

Section 5A.16(1)(b) and (2)(a), after 'urine'—

insert—

or saliva

22 Amendment of s 5A.19 (Interfering with specimens)

Section 5A.19, 'or urine'—

omit, insert—

, urine or saliva

23 Amendment of s 5A.21 (Evidentiary provision)

Section 5A.21(1)(a) and (c), after ‘urine’—

insert—

or saliva

24 Amendment of s 10.12 (Legal proceedings)

(1) Section 10.12(3), ‘either’—

omit, insert—

any

(2) Section 10.12(3)—

insert—

(c) at a stated time or during a stated period—

(i) a stated officer or staff member was authorised under section 5A.4B to operate a saliva analysing instrument; and

(ii) the authorisation was subject to a stated limitation or condition.

Part 5 Amendment of Police Service Administration Regulation 2016

25 Regulation amended

This part amends the *Police Service Administration Regulation 2016*.

26 Amendment of s 61 (Relevant person to advise details of medication etc.)

Section 61(1) and (3)(a)(i), after ‘urine’—

insert—

[s 27]

or saliva

27 Amendment of s 62 (If relevant person claims to be unable to provide specimen because of a medical condition)

- (1) Section 62(1)(a) and (3)(b), after ‘urine’—

insert—

or saliva

- (2) Section 62(1)(b) and (3), ‘doctor or registered nurse’—

omit, insert—

authorised tester

- (3) Section 62(1)(b) and (2), ‘a specimen of urine’—

omit, insert—

the required specimen

28 Amendment of s 63 (Water may be drunk if relevant person claims to be unable to immediately provide specimen)

Section 63, heading, after ‘provide’—

insert—

urine

29 Amendment of s 64 (Requirements about collecting and dealing with urine specimens)

- (1) Section 64, heading, ‘urine specimens’—

omit, insert—

urine or saliva specimens—Act, s 5A.14

- (2) Section 64(1) and (2), after ‘urine’—

insert—

or saliva

- (3) Section 64(3), ‘urine obtained’—
omit, insert—
urine or saliva collected
- (4) Section 64(4), after ‘urine’—
insert—
or saliva
- (5) Section 64(4), ‘obtained’—
omit, insert—
collected
- (6) Section 64(6), definition *standard*—
omit, insert—
standard means—
- (a) for collecting or dealing with a specimen of urine—joint Standards Australia and Standards New Zealand standard AS/NZS 4308:2008, section 2; or
 - (b) for collecting or dealing with a specimen of saliva—joint Standards Australia and Standards New Zealand standard AS/NZS 4760:2019.

30 Amendment of s 65 (Advice by commissioner to relevant person of test result)

Section 65(3) and (4), after ‘urine’—
insert—
or saliva

[s 31]

Part 6 Amendment of Weapons Act 1990

31 Act amended

This part amends the *Weapons Act 1990*.

32 Amendment of s 35 (Acquisition of weapons)

Section 35(6)(c), ‘3 months’—

omit, insert—

6 months

33 Amendment of s 36 (Sale or disposal of weapons)

Section 36(3)(c), ‘3 months’—

omit, insert—

6 months

34 Amendment of s 152 (Approved officers)

Section 152(1) and (2), ‘officer of the public service’—

omit, insert—

a public service officer

35 Amendment of s 163 (Evidentiary provisions)

(1) Section 163(2), after ‘a police officer’—

insert—

or a public service officer

(2) Section 163(2) and (3), after ‘the police officer’—

insert—

or the public service officer

(3) Section 163—

insert—

(5) In this section—

approved officer means a police officer or a public service officer appointed as an approved officer under section 152.

36 Amendment of s 168B (Amnesty for firearms and prescribed things in particular circumstances)

(1) Section 168B(2), ‘Subsections (3) and (4)’—

omit, insert—

Subsections (3) to (5)

(2) Section 168B(4)—

omit, insert—

(4) Unless the approved licensed dealer has a reasonable excuse, the dealer must surrender the firearm or prescribed thing to a police officer if the dealer does not have an authorisation, mentioned in section 168D(2), for the firearm or prescribed thing.

Maximum penalty—10 penalty units.

(4A) Without limiting subsection (4), it is a reasonable excuse for the approved licensed dealer not to surrender the firearm or prescribed thing if the dealer is seeking an authorisation, mentioned in section 168D(2), for the firearm or prescribed thing.

(3) Section 168B(7), definition *approved licensed dealer*, ‘subsection (5)’—

omit, insert—

subsection (6)

(4) Section 168B(4A) to (7)—

[s 37]

renumber as section 168B(5) to (8).

37 Amendment of s 168C (Dealing with surrendered firearm or prescribed thing)

Section 168C—

insert—

(3) In this section—

prescribed thing see section 168B(8).

38 Insertion of new s 168D

After section 168C—

insert—

168D Authorisation to deal with surrendered firearm or prescribed thing

- (1) This section applies if an approved licensed dealer acquires a firearm, or a prescribed thing, under section 168B(1)(a)(i).
- (2) An authorised officer may, in writing, authorise the approved licensed dealer to dispose of, or otherwise deal with, the firearm or prescribed thing.
- (3) On the giving of the authorisation, the firearm or prescribed thing—
 - (a) becomes the property of the approved licensed dealer; and
 - (b) may be dealt with by the approved licensed dealer in a way that is—
 - (i) stated in the authorisation; and
 - (ii) required or permitted under this Act or another Act.
- (4) In this section—

approved licensed dealer see section 168B(8).

prescribed thing see section 168B(8).

39 Amendment of sch 2 (Dictionary)

Schedule 2, definition *approved officer*—
omit.

Part 7 Other matters

40 Making of Oaths Regulation 2022

- (1) Schedule 1 has effect to make the *Oaths Regulation 2022* that is set out in schedule 1 as a regulation under the *Oaths Act 1867*.
- (2) To remove any doubt, it is declared that the *Oaths Regulation 2022*, on the commencement of schedule 1, stops being a provision of this Act and becomes a regulation made under the *Oaths Act 1867*.

41 Automatic repeal

For the purposes of the *Acts Interpretation Act 1954*, section 22C, this Act is an amending Act.

Schedule 1 Oaths Regulation 2022

section 40

1 Short title

This regulation may be cited as the *Oaths Regulation 2022*.

2 Definitions for regulation

In this regulation—

officer-in-charge, of a police station, police establishment or watch-house, includes a police officer nominated by the officer-in-charge of the police station, police establishment or watch-house as the officer-in-charge of the police station, police establishment or watch-house during the officer-in-charge's absence.

relevant affidavit means each of the following types of affidavit—

- (a) an affidavit made by a police officer for use in a proceeding under the *Bail Act 1980*;
- (b) an affidavit made by a police officer for use in a proceeding under the *Youth Justice Act 1992* in which a court is deciding whether to release a child in custody in connection with a charge of an offence or keep the child in custody;
- (c) an affidavit made by a police officer about the giving of a document to a person where the document is required or permitted under an Act to be given to the person by a police officer;
- (d) an affidavit made by a police officer that forms part of a sworn application sent under the *Police Powers and Responsibilities Act 2000*, section 801(4)(a).

senior police officer means—

- (a) an officer-in-charge of a police station, police establishment or watch-house; or
- (b) a watch-house manager; or
- (c) a police officer of or above the rank of sergeant.

3 Information witness must include on affidavit—Act, s 13E

For section 13E(d) of the Act, if the witness to the affidavit is a person prescribed under section 4, 6 or 8, the prescribed information is the witness's rank.

4 Prescribed persons for witnessing affidavits—Act, s 16A

For section 16A(1)(e) of the Act, a senior police officer is prescribed.

5 Witnessing prescribed types of affidavits—Act, s 16A

For section 16A(2)(a) of the Act, a relevant affidavit is prescribed as the only type of affidavit that may be witnessed by a person prescribed under section 4.

6 Persons prescribed as witness—Act, s 16C

For section 16C(2) of the Act, a senior police officer is prescribed as a person who may witness an affidavit under that section.

7 Witnessing prescribed types of affidavits—Act, s 16C

For section 16C(3)(a) of the Act, a relevant affidavit is prescribed as the only type of document that may be witnessed by a person prescribed under section 6.

8 Persons prescribed as witness—Act, s 31S

For section 31S(1) of the Act, a senior police officer is prescribed.

9 Prescribed types of documents—Act, s 31S

For section 31S(2)(a) of the Act, a relevant affidavit is prescribed as the only type of document that may be witnessed by a person prescribed under section 8.

10 Prescribed condition—Act, s 31S

- (1) This section prescribes, for section 31S(2)(a) of the Act, a condition for the witnessing, by a person prescribed under section 8, of an affidavit mentioned in section 2, definition *relevant affidavit*, paragraph (a) or (b).
- (2) The condition is that it is not reasonably practicable to witness the affidavit other than under section 31S of the Act.

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