

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

*Legislative Assembly Chamber,  
Brisbane,*

*The Clerk of the Parliament.*

*2 May 2023*

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

*A. Bouskill*  
*Government House,  
Brisbane,*

*2 May 2023*



Queensland

**No. 10 of 2023**

**A BILL for**

**An Act to amend the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004, the Police Powers and Responsibilities Act 2000, the Police Service Administration Act 1990, the Summary Offences Act 2005, the Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015, the Transport Operations (Road Use Management) Act 1995 and the Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021 for particular purposes**





## Queensland

# Police Powers and Responsibilities and Other Legislation Amendment Bill (No. 1) 2023

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# 2023

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## A Bill

for

***An Act to amend the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, the *Police Powers and Responsibilities Act 2000*, the *Police Service Administration Act 1990*, the *Summary Offences Act 2005*, the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*, the *Transport Operations (Road Use Management) Act 1995* and the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* for particular purposes***

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[s 1]

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**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 (No. 1) 2023*.

### **2 Commencement**

Part 2 commences on a day to be fixed by proclamation.

## **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 s 3 (Purposes of this Act)**

Section 3(2)(b)—

*omit, insert—*

- (b) requires offenders who are sentenced for reportable offences to report specified personal details for inclusion in the register; and



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**5 Amendment of s 5 (*Reportable offender defined*)**

- (1) Section 5(1)(a), from ‘after the commencement’—

*omit, insert—*

, regardless of when the offence was committed or  
the person was convicted; or

- (2) Section 5(1)(aa), ‘subsection (5A)’—

*omit, insert—*

subsection (5)

- (3) Section 5(1)—

*insert—*

(ea) the respondent for a registered  
corresponding order; or

- (4) Section 5(1)(aa) to (f)—

*renumber* as section 5(1)(b) to (h).

- (5) Section 5(2)(b), ‘single prescribed offence’—

*omit, insert—*

prescribed offence that is a single offence

- (6) Sections 5(4) and (5)—

*omit, insert—*

- (4) For this section, it does not matter—

(a) whether a person committed, was convicted  
of or sentenced for a reportable offence  
before or after 1 January 2005; or

(b) whether or not a person may lodge, or has  
lodged, an appeal in relation to a conviction,  
sentence or the making of an offender  
reporting order.

- (7) Section 5(5A), from ‘subsection (1)(aa)’ to ‘offence, it’—

*omit, insert—*

subsection (1)(b), if a court convicts a person of

[s 6]

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an offence other than a reportable offence, the  
court

(8) Section 5(6), (7) and (8)—

*omit, insert—*

(6) For subsection (2)(b)(ii), a reference to being  
under the supervision of a supervising authority  
does not include supervision under a fine option  
order.

(9) Section 5(5A)—

*renumber* as section 5(5).

## **6 Amendment of s 6 (*Existing reportable offender defined*)**

Section 6(1)—

*omit, insert—*

(1) An *existing reportable offender* is—

(a) a person who—

(i) was convicted of a reportable offence  
before 1 January 2005; and

(ii) on 1 January 2005, was serving a term  
of imprisonment, or was subject to a  
supervision order, for the reportable  
offence; or

(b) a person who, immediately before 1 January  
2005, was subject to a pre-2005 reporting  
order.

## **7 Replacement of s 7 (*Corresponding reportable offender defined*)**

Section 7—

*omit, insert—*

**7     *Corresponding reportable offender and  
corresponding reportable offence defined***

- (1) A *corresponding reportable offender* is a person who—
- (a) has, at any time, been convicted of a corresponding reportable offence; and
  - (b) falls within a class of person whom a regulation states is a corresponding reportable offender.
- (2) A *corresponding reportable offence* is an offence against a law of a foreign jurisdiction if a person convicted of the offence would be required to report to the corresponding registrar in the foreign jurisdiction because of the conviction.

**8     *Amendment of s 7A (Post-DPSOA reportable offender defined)***

- (1) Section 7A(1)(a), ‘the commencement date’—  
*omit, insert—*  
1 January 2005
- (2) Section 7A(1)(c)—  
*omit.*

**9     *Amendment of s 8 (When a person stops being a reportable offender)***

Section 8(c), from ‘this Act’—  
*omit, insert—*  
this Act is quashed on appeal;

**10    *Amendment of s 9 (Reportable offence defined)***

- (1) Section 9, heading, after ‘*offence*’—

*insert—*

**and existing reportable offence**

(2) Section 9—

*insert—*

(d) a corresponding reportable offence.

(3) Section 9—

*insert—*

(2) An **existing reportable offence** is a reportable offence committed before the commencement day, regardless of whether a person is convicted of the offence before or after the commencement day.

## **11 Amendment of s 10 (*Finding of guilt defined*)**

(1) Section 10, heading—

*omit, insert—*

### **10 Conviction defined**

(2) Section 10(1), '*finding of guilt*'—

*omit, insert—*

**conviction**

(3) Section 10(1), after '*the following*'—

*insert—*

, whether or not a conviction is recorded

(4) Section 10(2), '*finding of guilt does not include a finding of guilt*'—

*omit, insert—*

conviction does not include a conviction

**12 Amendment of s 11 (References to other terms and concepts)**

Section 11(1)—

*omit, insert—*

- (1) A ***single offence*** is 1 or more offences committed against the same person within a single period of 24 hours that, together, are taken to be 1 offence.

**13 Omission of pt 3A, div 3 (Reportable offender obligations)**

Part 3A, division 3—

*omit.*

**14 Replacement of pt 4, div 5 (Reporting period)**

Part 4, division 5—

*omit, insert—*

**Division 5 Reporting period**

**Subdivision 1 Preliminary**

**35 Simplified outline of div 5**

- (1) This division provides for the period for which a reportable offender must comply with reporting obligations imposed on the offender under this part.
- (2) Generally, a reportable offender who is convicted of a reportable offence is required to comply with the reporting obligations imposed on the offender under this part in relation to the reportable offence for the period worked out under subdivision 2 as follows—

- (a) section 36 provides for when the reporting period for the reportable offence starts;
  - (b) sections 37 to 39A provide for when the reporting period for the reportable offence ends, depending on—
    - (i) when the offender committed the offence; and
    - (ii) whether the offender has committed other reportable offences for which the offender has been required to comply with reporting obligations imposed on the offender under this part; and
    - (iii) whether the offender was a child when the offence was committed.
- (3) A longer reporting period may apply to a reportable offender in relation to a reportable offence under section 39B if the offender is on parole for the offence when the reporting period for the offence would otherwise end.
- (4) A reportable offender is required to comply with reporting obligations imposed on the offender under this part in relation to a reportable offence even if the reportable offender is already complying with reporting obligations imposed on the offender under this part in relation to another reportable offence.
- (5) Subdivision 3 provides for a reportable offender to comply with reporting obligations imposed on the offender under this part other than in relation to a reportable offence as follows—
  - (a) under section 39D, while the offender is subject to a forensic order under the *Mental Health Act 2016*, if an offender reporting order is made with the forensic order;
  - (b) under section 39E, while the offender is subject to an offender prohibition order;

- (c) under section 39F, if the offender is the respondent to a registered corresponding order;
- (d) under section 39G, if the offender has ever been subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*;
- (e) under section 39H, if the offender is a corresponding reportable offender.

## **Subdivision 2 Reporting period in relation to reportable offence**

### **36 When reporting obligations start**

- (1) The reporting obligations imposed on a reportable offender under this part for a reportable offence start—
  - (a) if the reportable offence is an offence that resulted in an offender reporting order being made against the offender—when the offender reporting order is made; or
  - (b) if the reportable offender entered government detention for the reportable offence—when the offender stops being in government detention for the offence; or
  - (c) if the reportable offender is subject to a supervision order for the reportable offence—when the supervision order is made; or
  - (d) otherwise—when the reportable offender is sentenced for the offence.
- (2) The reporting obligations imposed on an existing reportable offender under this part, for a

reportable offence of which the offender was convicted before 1 January 2005, are taken to have started on the latest of the following—

- (a) when the offender was sentenced for the reportable offence;
- (b) when the offender stopped being in government detention for the reportable offence;
- (c) if the reportable offender was subject to a pre-2005 reporting order on 1 January 2005—when the pre-2005 reporting order was imposed on the reportable offender.

### **37 Length of reporting period—existing reportable offence**

- (1) A reportable offender convicted of an existing reportable offence must comply with reporting obligations imposed on the offender under this part for the offence for 5 years.
- (2) However, the reportable offender must comply with reporting obligations imposed on the offender under this part for the offence for 10 years if—
  - (a) the offender was given notice of reporting obligations under this Act or a corresponding Act in relation to 1 or more other reportable offences, regardless of when the other offences were committed; and
  - (b) the existing reportable offence is 1 single offence committed by the offender after being given the notice; and
  - (c) the offender has not been convicted of a reportable offence committed after the commencement day.



**38 Length of reporting period—reportable offence other than existing reportable offence**

- (1) This section applies to a reportable offender convicted of a reportable offence other than an existing reportable offence.
- (2) The reportable offender must comply with reporting obligations imposed on the offender under this part for the offence for 10 years.
- (3) However, the reportable offender must comply with reporting obligations imposed on the offender under this part for the offence for 20 years if—
  - (a) the offender was given notice of reporting obligations under this Act or a corresponding Act in relation to 1 or more other reportable offences, regardless of when the other offences were committed; and
  - (b) the reportable offence is 1 single offence committed by the offender after being given the notice; and
  - (c) the offender has not been convicted of another reportable offence committed after the commencement day.

**39 Life-long reporting for particular repeat offenders**

- (1) A reportable offender must comply with reporting obligations imposed on the offender under this part for the remainder of the offender's life if the offender—
  - (a) has been convicted of 1 or more reportable offences, regardless of when the offences were committed; and

- (b) was given notice of reporting obligations under this Act or a corresponding Act in relation to the offence or offences; and
  - (c) committed, and was convicted of, more than 1 reportable offence—
    - (i) after being given the notice; and
    - (ii) regardless of when the offences were committed or the offender was convicted of the offences.
- (2) This section applies despite sections 37 and 38.

### **39A Reduced reporting period for child reportable offenders**

- (1) This section applies to a reportable offender in relation to a reportable offence the offender committed as a child.
- (2) Despite sections 37, 38 and 39, the reportable offender must comply with the reporting obligations imposed on the offender under this part for the reportable offence for—
  - (a) if section 37 applies to the offender—half of the period that would otherwise apply to the offender under that section; or
  - (b) if section 38(2) applies to the offender—4 years; or
  - (c) if section 38(3) applies to the offender—7½ years; or
  - (d) if section 39 applies to the offender—7½ years.

### **39B Extended reporting period for reportable offender on parole**

- (1) This section applies if—

- (a) a reportable offender is on parole in relation to a reportable offence; and
  - (b) the reporting period that applies to the offender under another provision of this subdivision ends before the sentence of imprisonment to which the parole relates ends.
- (2) Despite sections 37 to 39A, the reportable offender must continue to comply with the reporting obligations imposed on the offender under this part until the term of imprisonment to which the parole relates ends.

### **Subdivision 3 Reporting periods that do not relate to reportable offence**

#### **39C Application of subdivision**

This subdivision applies despite subdivision 2.

#### **39D Forensic reportable offenders**

A forensic reportable offender must comply with the reporting obligations imposed on the offender under this part for the period—

- (a) starting when an offender reporting order made with a forensic order under the *Mental Health Act 2016* is imposed on the person; and
- (b) ending when the forensic order is revoked.

#### **39E Reportable offenders subject to offender prohibition order**

A reportable offender who is subject to an

offender prohibition order must comply with the reporting obligations imposed on the offender under this part while the offender prohibition order is in effect.

### **39F Respondents for registered corresponding order**

A reportable offender who is the respondent for a registered corresponding order must comply with the reporting obligations imposed on the offender under this part for the period—

- (a) starting on the day the order is registered; and
- (b) ending when the shortest of the following periods ends—
  - (i) the period the registered corresponding order has effect;
  - (ii) for an adult respondent—5 years;
  - (iii) for a child respondent—2 years.

### **39G Reportable offenders ever subject to division 3 order**

A reportable offender who has ever been subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* must continue to comply with the reporting obligations imposed on the offender under this part for the remainder of the offender's life.

### **39H Corresponding reportable offenders**

- (1) This section applies if the foreign reporting period for a corresponding reportable offence is longer than the period that applies to the offender under subdivision 2 for the offence.

- (2) The corresponding reportable offender must continue to comply with the reporting obligations imposed on the offender under this part until the foreign reporting period ends.
- (3) The ***foreign reporting period*** for a corresponding reportable offence is the period a corresponding reportable offender is required to report to the corresponding registrar in a foreign jurisdiction because the offender was convicted of the offence.

## 15 **Amendment of s 41 (Supreme Court may exempt particular reportable offenders)**

- (1) Section 41(2), ‘If—’

*omit, insert—*

A reportable offender may apply to the Supreme Court for an order suspending the reporting obligations imposed on the offender under this part if—

- (2) Section 41(2)(a), ‘a period of 15 years’—

*omit, insert—*

the minimum period

- (3) Section 41(2), from ‘the offender may apply’—

*omit.*

- (4) Section 41—

*insert—*

- (3) For subsection 2(a), the ***minimum period*** is—

- (a) if the requirement for the reportable offender to comply with the reporting obligations imposed on the offender under this part for the remainder of the offender’s life applied immediately before the commencement day—15 years; or

(b) otherwise—25 years.

## **16 Amendment of various provisions**

- (1) In the following provisions, omit ‘finding of guilt’ and replace it with ‘conviction’—
  - section 8(a)
  - section 48(2)(a) and (b)(ii) and (3)
  - section 55(1)(c), example.
- (2) In the following provisions, omit ‘found guilty’ and replace it with ‘convicted’—
  - section 53(1)(b)
  - section 55(1)(c), example
  - section 68(2)(b) and (c)
  - section 76(1)
  - schedule 2, item 11(a).
- (3) Section 12B(1)(a), ‘finds a person guilty’—  
*omit, insert—*

convicts a person
- (4) Section 76(2), ‘or found guilty’—  
*omit.*

## **17 Amendment of sch 3 (When reportable offender must make initial report)**

Schedule 3, entry for ‘a reportable offender who becomes a corresponding reportable offender’, column 1, from ‘who becomes’ to ‘section 39’—

*omit, insert—*

who is a corresponding reportable offender who  
under section 39H

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**18 Amendment of sch 5 (Dictionary)**

- (1) Schedule 5, definitions *commencement date*, *conviction* and *finding of guilt*—  
*omit.*
- (2) Schedule 5—  
*insert—*

*commencement day* means the day the *Police Powers and Responsibilities and Other Legislation Amendment Act (No. 1) 2023*, section 3 commences.

*conviction* see section 10.

*corresponding reportable offence* see section 7(2).

*existing reportable offence* see section 9(2).

*pre-2005 reporting order* means a reporting order made under the *Criminal Law Amendment Act 1945*, section 19, as in force from time to time before 1 January 2005.

*single offence* see section 11(1).

**Part 3 Amendment of Police Powers and Responsibilities Act 2000**

**19 Act amended**

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

**20 Amendment of s 69A (Meaning of *type 1* and *type 2 vehicle related offences*)**

Section 69A(1)—  
*insert—*

[s 21]

---

- (c) an offence against the Road Use Management Act, section 85A.

**21 Amendment of s 221 (Object of ch 10)**

Section 221(2)—

*omit.*

**22 Insertion of new s 221A**

After section 221—

*insert—*

**221A Definitions for chapter**

In this chapter—

***ancillary conduct***, for an authorised controlled activity, means conduct that—

- (a) is aiding or enabling a police officer to engage in the controlled activity; or
- (b) is conspiring with a police officer for the police officer to engage in the controlled activity.

***authorised controlled activity*** means a controlled activity authorised under section 224.

***civilian participant*** means an adult who is not a police officer.

***conduct*** includes any act or omission.

***controlled activity offence*** means—

- (a) a seven year imprisonment offence; or
- (b) an indictable offence mentioned in schedule 2; or
- (c) an indictable or simple offence mentioned in schedule 5.



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**23 Amendment of s 223 (Lawfulness of particular actions)**

Section 223—

*insert—*

- (c) that it is lawful for a police officer of at least the rank of superintendent, acting in accordance with policies or procedures established by the commissioner, to authorise a civilian participant to engage in ancillary conduct for an authorised controlled activity, for the police service; and
- (d) that it is lawful for a civilian participant acting under an authority given under section 224A to engage in ancillary conduct for an authorised controlled activity.

**24 Amendment of s 224 (Authorised controlled activities)**

- (1) Section 224(2), after ‘any policy’—

*insert—*

or procedure

- (2) Section 224(6)—

*omit.*

**25 Insertion of new s 224A**

After section 224—

*insert—*

**224A Authorised ancillary conduct for a controlled activity**

- (1) This section applies if a police officer considers it is reasonably necessary for a civilian participant to engage in ancillary conduct for an authorised controlled activity.

[s 26]

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- (2) A police officer of at least the rank of superintendent (a *senior police officer*) may, in accordance with any policy or procedure of the police service, authorise the civilian participant to engage in ancillary conduct for the authorised controlled activity.
- (3) However, the senior police officer may give the authorisation under subsection (2) only if, having regard to the nature and extent of the authorised controlled activity, authorising the ancillary conduct is appropriate in the particular circumstances.
- (4) The authority must be written and state—
  - (a) the authorised controlled activity; and
  - (b) details of the ancillary conduct the civilian participant is authorised to engage in; and
  - (c) the period, of not more than 7 days, for which the authority is in force.

## **26 Amendment of s 225 (Protection from liability)**

- (1) Section 225, heading, after ‘liability’—

*insert—*

**—police officers**

- (2) Section 225(1)—

*omit, insert—*

- (1) This section applies to the following—
  - (a) a police officer who authorised—
    - (i) a controlled activity under section 224; or
    - (ii) a civilian participant to engage in ancillary conduct for an authorised controlled activity under section 224A;

- (b) a police officer who is or was authorised under this chapter to engage in a controlled activity.
- (3) Section 225(2), ‘A relevant person’—  
*omit, insert—*  
A police officer
- (4) Section 225(3), ‘person’—  
*omit, insert—*  
police officer
- (5) Section 225(4) and (5), ‘a relevant person’—  
*omit, insert—*  
a police officer

## 27 Insertion of new s 225A

After section 225—

*insert—*

### **225A Protection from liability—civilian participant in authorised ancillary activity**

- (1) This section applies to a civilian participant who is or was authorised under this chapter to engage in ancillary conduct for an authorised controlled activity.
- (2) The civilian participant does not incur civil liability or criminal liability for an act done, or omission made, in the honest belief that it was done or omitted to be done—
  - (a) under an authority given for ancillary conduct for a controlled activity under section 244A; and
  - (b) if a police officer gives a lawful instruction to the participant—in accordance with the instruction.

[s 28]

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- (3) If subsection (2) prevents a civil liability attaching to a civilian participant, the liability attaches instead to the State.

**28 Amendment of s 226 (Admissibility of evidence obtained through controlled activities)**

- (1) Section 226, heading, after ‘activities’—  
*insert—*

**or ancillary conduct**

- (2) Section 226, after ‘controlled activity’—  
*insert—*

or ancillary conduct

**29 Amendment of s 810 (Renumbering of Act)**

- (1) Section 810(3)—  
*omit.*

- (2) Section 810(4)—  
*omit, insert—*

- (4) This section expires when the *Cross-Border Law Enforcement Legislation Amendment Act 2005* expires or is repealed.

**30 Amendment of sch 2 (Relevant offences for controlled operations and surveillance device warrants)**

- (1) Schedule 2, before item 1—  
*insert—*

**1AA Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004**

An offence against the following provisions of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*—

- section 50 (Failure to comply with reporting obligations)
- section 67FA (Failing to comply with offender prohibition order)
- section 67FD (False or misleading information).

(2) Schedule 2, entry for the Criminal Code—

*insert—*

- section 223 (Distributing intimate images)
- section 408C (Fraud)
- section 408D (Obtaining or dealing with identification information)
- section 408E (Computer hacking and misuse)

### 31 Omission of sch 4 (Renumbered cross-references)

Schedule 4—

*omit.*

### 32 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definitions *caution* and *civilian participant*—

*omit.*

(2) Schedule 6—

*insert—*

***ancillary conduct***, for an authorised controlled activity, for chapter 10, see section 221A.

***authorised controlled activity***, for chapter 10, see section 221A.

***civilian participant***—

(a) for chapter 10—see section 221A; or

[s 32A]

---

(b) for chapter 11—see section 229.

***controlled activity offence***, for chapter 10, see section 221A.

(3) Schedule 6, definition *conduct*, before paragraph (a)—  
*insert—*

(aa) for chapter 10, see section 221A; or

(4) Schedule 6, definition *conduct*, paragraphs (aa) to (b)—  
*renumber* as paragraphs (a) to (c).

## **Part 3A                      Amendment of Police Service Administration Act 1990**

### **32A      Act amended**

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

### **32B      Amendment of s 1.4 (Definitions)**

(1) Section 1.4—  
*insert—*

***special constable (associate)*** means a person holding appointment as a special constable (associate) under section 5.16.

***special constable (State officer)*** means a person holding appointment as a special constable (State officer) under section 5.16.

(2) Section 1.4, definition *senior officer*—  
*insert—*

*Note—*

In relation to special constables (State officer), see section 5.16A(5).

**32C Amendment of s 2.2 (Membership of service)**

Section 2.2(2)—

*insert—*

- (f) the persons holding appointment as a special constable (State officer).

**32D Amendment of s 3.1 (Meaning of *officer* in part)**

Section 3.1, after ‘constable’—

*insert—*

(associate)

**32E Amendment of s 3.2 (Relation to office of constable)**

Section 3.2—

*insert—*

- (5) This section—
  - (a) applies to a special constable (State officer) subject to section 5.16A(4); and
  - (b) applies to a special constable (associate) subject to section 5.16B(1)(c).

**32F Amendment of s 5.14 (Calculation of continuous service as officer)**

Section 5.14—

*insert—*

- (4) For the purpose of calculating continuous service of an officer, a period of service as a special constable (State officer) is to be disregarded.

**32G Replacement of s 5.16 (Special constables)**

Section 5.16—

[s 32G]

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*omit, insert—*

### **5.16 Appointment of special constables**

- (1) The commissioner may make as many appointments of special constables as, in the commissioner's opinion, are necessary for the effectual administration of this Act and the efficient and proper discharge of the prescribed responsibility.
- (2) The commissioner may, in writing, appoint a person as a special constable on the terms and conditions the commissioner considers appropriate.
- (3) An appointment must be as—
  - (a) a special constable (State officer); or
  - (b) a special constable (associate).

### **5.16A Special constables (State officer)**

- (1) Appointment as a special constable (State officer) is to be on the basis of employment other than full-time or part-time employment.
- (2) The commissioner may at any time, by written notice given to a special constable (State officer), revoke or vary the special constable's appointment.
- (3) A special constable (State officer) is entitled to the salary, allowances and other remuneration that are—
  - (a) provided for in the special constable's instrument of appointment; or
  - (b) prescribed by regulation.
- (4) The powers of a special constable (State officer) may be limited by the special constable's instrument of appointment.



- (5) Despite section 1.4, definition *senior officer*—
- (a) a special constable (State officer) is the senior officer in relation to a constable on probation; and
  - (b) an officer other than a constable on probation is the senior officer in relation to a special constable (State officer).
- (6) In this section—
- constable on probation*** means a constable whose appointment is on probation under section 5.12.

### **5.16B Special constables (associate)**

- (1) A special constable (associate)—
- (a) is not an employee of the State or of the commissioner; and
  - (b) is not entitled to salary, allowances or other remuneration, except as provided for in the special constable's instrument of appointment; and
  - (c) has the powers and duties of an officer, under this Act or another Act, as specified in the special constable's instrument of appointment, and no other.
- (2) Subject to subsection (1), relevant provisions and other Acts apply to a special constable (associate) as if the special constable were an officer.
- (3) In this section—
- relevant provision*** means a provision of this Act relating to an officer that may be reasonably applied to a special constable (associate).

[s 32G]

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### **5.16C Exclusion of matters about special constables from review under other Acts**

- (1) This section applies to the following matters (each an *excluded matter*)—
  - (a) a decision to appoint or not to appoint a person as a special constable;
  - (b) a decision to revoke or vary a person's appointment as a special constable;
  - (c) the terms and conditions of a person's appointment as a special constable, including the salary, allowances and other remuneration to which a special constable is entitled;
  - (d) a decision about a matter mentioned in paragraph (c).
- (2) An excluded matter, or a matter affecting or relating to an excluded matter, is not an industrial matter for the *Industrial Relations Act 2016*.
- (3) Without limiting subsection (2), an industrial instrument does not apply to a person appointed as a special constable.
- (4) Subsections (2) and (3) apply despite section 5.15(b).
- (5) However, subsection (2) does not affect the *Industrial Relations Act 2016*, section 471.
- (6) Unless the Supreme Court decides an excluded decision is affected by jurisdictional error, the decision—
  - (a) is final and conclusive; and
  - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise

(whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

(7) The *Judicial Review Act 1991*, part 5 applies to an excluded decision to the extent it is affected by jurisdictional error.

(8) In this section—

***appoint***, in relation to a special constable (State officer), includes employ.

***decision*** includes a decision or conduct leading up to or forming part of the process of making a decision.

***excluded decision*** means a decision that is an excluded matter.

### **32H Amendment of s 8.2 (Retirement)**

(1) Section 8.2, from ‘, other’ to ‘basis’—

*omit.*

(2) Section 8.2—

*insert—*

(2) Subsection (1) does not apply to—

(a) an officer who holds a position on a contract basis; or

(b) a special constable (State officer).

### **32I Insertion of new pt 11, div 15**

Part 11—

*insert—*

[s 33]

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**Division 15**      **Transitional provision for  
Police Powers and  
Responsibilities and Other  
Legislation Amendment  
Act (No. 1) 2023**

**11.43 Current appointments as special constable**

- (1) This section applies to an appointment under section 5.16 in effect immediately before the commencement.
- (2) From the commencement, the appointment is taken to be an appointment as a special constable (associate).

**Part 4**                      **Amendment of Summary  
Offences Act 2005**

**33**      **Act amended**

This part amends the *Summary Offences Act 2005*.

**34**      **Insertion of new pt 2, div 4A**

Part 2—

*insert—*

**Division 4A**      **Offences associated with  
hooning offences**

**19A Object of division**

The object of this division is to discourage the commission of racing, burn out and other hooning offences by prohibiting—

- (a) conduct that promotes or encourages the commission of these offences; and
- (b) the possession of things being, to be or having been used to commit those offences.

**19B Meaning of *racing, burn out or other hooning offence***

*A racing, burn out or other hooning offence* is a type 1 vehicle related offence under the *Police Powers and Responsibilities Act 2000*, section 69A(1).

**19C Unlawful conduct associated with commission of racing, burn out or other hooning offence**

A person must not—

- (a) willingly participate in a group activity involving a motor vehicle being used to commit a racing, burn out or other hooning offence; or
- (b) organise, promote or encourage another person to participate in, or view, a group activity involving a motor vehicle being used to commit a racing, burn out or other hooning offence; or
- (c) for a purpose mentioned in paragraph (b), photograph or film, or publish a photograph or film of, a motor vehicle being used to commit a racing, burn out or other hooning offence.

Maximum penalty—40 penalty units or 1 year's imprisonment.

[s 35]

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### **19D Possession of things used in commission of racing, burn out or other hooning offence**

- (1) A person must not possess a thing that is being, is to be, or has been used to commit a racing, burn out or other hooning offence.

Maximum penalty—40 penalty units or 1 year's imprisonment.

*Examples of things for use in committing a racing, burn out or other hooning offence—*

- number plates that are not related to a motor vehicle being used to commit a racing, burn out or other hooning offence
- a hydraulic jack and racing tyres for a motor vehicle being used in a street race

- (2) For subsection (1), a reference to a thing does not include a motor vehicle.

## **35 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

*racing, burn out or other hooning offence* see section 19B.

## **Part 5 Amendment of Transport Operations (Road Use Management) Act 1995**

### **36 Act amended**

This part amends the *Transport Operations (Road Use Management) Act 1995*.

## 37 Insertion of new s 85A

After section 85—

*insert—*

### **85A Wilfully causing motor vehicle to lose traction with road**

- (1) A person must not wilfully drive a motor vehicle on a road or in a public place in a way that causes a sustained loss of traction of 1 or more of the wheels of the motor vehicle and the road or other surface.

Maximum penalty—20 penalty units.

*Examples—*

- driving a vehicle in a way that causes a sustained loss of traction of 1 or more of the wheels with a road surface so that the tyres or a substance poured onto the road surface smokes
  - driving a motor vehicle in a carpark in a way that causes a sustained loss of traction of 1 or more of the wheels with a wet or gravelled surface, regardless of whether the tyres smoke because of the loss of traction
- (2) A person does not commit an offence against subsection (1) if—
- (a) a permit issued under a regulation authorises the person to drive a motor vehicle in a way that would otherwise contravene subsection (1); and
  - (b) the person drives a motor vehicle in a way permitted or allowed under the permit, including under the conditions stated in the permit.
- (3) Also, an authorised officer does not commit an offence against subsection (1) if the authorised officer is driving the motor vehicle while exercising a power, or performing a function, under this Act or another Act.

*Example—*

An authorised officer is carrying out a friction supply test, otherwise known as a skid test, while driving a motor vehicle on a road or in a public place.

*Note—*

See also section 144 in relation to a police officer exercising a power, or performing a function, under this Act or another Act.

## **Part 6**

# **Amendment of Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015**

### **38 Regulation amended**

This part amends the *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*.

### **39 Amendment of s 124 (Definitions for pt 5)**

Section 124, definition *special circumstances permit*, from ‘person’—

*omit, insert—*

person—

- (a) is allowed to use roads in a particular way;  
or
- (b) for a permit issued for section 85A of the Act—is allowed to drive a motor vehicle on a road or in a public place in a way that would otherwise contravene section 85A(1) of the Act.



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**40 Amendment of s 128 (Application for, and issue of, permit)**

(1) Section 128—

*insert—*

(1A) Without limiting subsection (1), an application may relate to using a motor vehicle in a way that would otherwise contravene section 85A(1) of the Act.

(2) Section 128—

*insert—*

(5A) For an application mentioned in subsection (2), a reference in this section to a road is taken to include a public place.

(3) Section 128(1A) to (6)—

*renumber* as section 128(2) to (8).

**41 Amendment of s 129 (Authority of special circumstances permit)**

Section 129(2)—

*insert—*

*Note—*

See also section 85A(2) of the Act for the authority of a special circumstances permit that relates to using a motor vehicle on a road or in public place in a way that would otherwise contravene section 85A(1) of the Act.

## **Part 7                      Amendment of Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021**

### **42            Regulation amended**

This part amends the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021*.

### **43            Amendment of s 211 (Using, or permitting use of, vehicle for which registration certificate, number plate or permit altered etc.)**

(1) Section 211, penalty—

*omit, insert—*

Maximum penalty—

- (a) if the vehicle is used in the commission of a type 1 vehicle related offence—40 penalty units; or
- (b) otherwise—20 penalty units.

(2) Section 211—

*insert—*

(2) In this section—

***type 1 vehicle related offence*** see the *Police Powers and Responsibilities Act 2000*, section 69A(1).