

# DEPARTMENTAL BRIEF ON THE POLICE POWERS AND RESPONSIBILITIES AND OTHER LEGISLATION AMENDMENT BILL 2023

## Departments

1. Queensland Police Service; and
2. Queensland Fire and Emergency Services.

## Bill Overview

3. On 21 February 2023, the Minister for Police and Corrective Services and Minister for Fire and Emergency Services introduced the Police Powers and Responsibilities and Other Legislation Amendment Bill 2023 into the Queensland Parliament. The Bill was referred to the Legal Affairs and Community Safety Committee (the Committee).
4. The Police Powers and Responsibilities and Other Legislation Amendment Bill 2023 amends the *Drugs Misuse Act 1986* (DMA), the *Fire and Emergency Services Act 1990* (FES Act), the *Penalties and Sentences Act 1992* (PSA), the *Police Powers and Responsibilities Act 2000* (PPRA), the *Police Service Administration Act 1990* (PSAA), and the *Youth Justice Act 1992* (YJA).
5. Minor consequential amendments are also made to the *Bail Act 1980* and the *Justice and Other Information Disclosure Act 2008*.
6. The objective of the Bill is to promote the efficiency of the Queensland Police Service (QPS) and the Queensland Fire and Emergency Services (QFES) through a range of amendments that will deliver operational or administrative improvements.
7. In relation to the QPS, amendments in the Bill will:
  - enhance the Police Drug Diversion Program by introducing drug diversion warnings, allowing an eligible person an opportunity to participate in a subsequent drug diversion assessment program and by expanding the definition of minor drug offences to include the possession of prescribed quantities of any type of dangerous drug and certain pharmaceuticals;
  - allow for the appointment of a person as an executive officer in the QPS rather than to an executive officer position. This will allow executive officers (i.e. Assistant and Deputy Commissioners) to be appointed generically to their respective rank or to the particular position that they will fill; and
  - introduce a circumstance of aggravation for the offence of evading police under section 754 'Evasion offence' of the PPRA.
8. The Bill will support the ongoing effectiveness of services delivered by QFES through amendments that:
  - confirm any request or application made under sections 64 'Prohibition by commissioner against lighting of fires' and 65 'Granting of permits' of the FES Act must contain the information prescribed by regulation and, in the case of a request under section 64, be made in the way prescribed by regulation; and
  - introduce the new section 150BA 'Assault of persons performing functions or exercising powers' of the FES Act and make consequential amendments to the offence outlined in section 150C 'Obstruction of persons performing functions' of the FES Act.

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9. The Bill will also amend the DMA to increase the maximum penalty for an offence against section 5 'Trafficking in dangerous drugs' from 25 years imprisonment to life imprisonment to reflect the serious nature of this offence.

### Drug Diversion

#### Existing legal framework

10. The existing police drug diversion program (PDDP) has been operating in Queensland since 2001. Since its commencement, over 153,000 people have been diverted from the criminal justice system for the possession of cannabis or things used to smoke cannabis.
11. The existing PDDP provisions are contained in Chapter 14, part 4 of the PPRA.
12. Chapter 14 (Arrest and custody powers), Part 4 (Discontinuing arrest) outlines circumstances where police either may or must discontinue arrest and take alternative action to deal with the offence for which the person was arrested. Section 379 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA outlines the current criteria for when an arrest for a minor drugs offence may be discontinued.
13. Currently the definition of *minor drugs offence* under Schedule 6 of the PPRA is limited to the possession of not more than 50 grams of cannabis or possession of a thing used for smoking cannabis.
14. Prosecution is the only option available to police to deal with offences relating to possession of a small quantity of any other dangerous drug, the possession of anything used in conjunction with the administration of a dangerous drug other than cannabis, or the misuse of pharmaceuticals.
15. Use of the diversion framework is also limited by the application of an eligibility criteria. A person is currently not eligible for drug diversion in circumstances where the person:
  - has committed another indictable offence in circumstances that are related to the minor drugs offence (section 379(1)(b));
  - the person has previously been sentenced to serve a term of imprisonment for an offence against sections 5, 6, 8 or 9D the DMA, (section 379(1)(c));
  - has been convicted of an offence involving violence for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has not expired (section 379(1)(d));
  - has not participated in an electronically recorded interview and admitted to committing the offence (section 379(1)(e)); and
  - has previously been offered the opportunity to participate in a drug diversion assessment program (section 379(1)(f)).
16. The last three exclusions delineated above, limit the opportunity to participate in the PDDP significantly.

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### Policy context for changes in the Bill

#### *Consistency with Government Strategies and Plans*

17. The expansion of PDDP aligns with a number of Government strategies and plans. A summary of relevant strategies is provided below.

#### *Youth Justice Strategy 2019-2023*

18. A key pillar of the Youth Justice Strategy is to keep children out of court. A priority under this pillar is to explore opportunities to expand drug diversion for a minor drug offence. This includes addressing barriers and exploring options for police on the appropriate use of diversionary options including warnings, cautions, and referrals for restorative justice conferences and other services.<sup>1</sup>

#### *Achieving Balance: The Queensland Alcohol and Other Drugs Plan (2022 – 2027)*

19. Priority 3 of Achieving Balance is to expand diversion to increase the availability of health responses and reduce criminal justice responses for people experiencing problematic alcohol and drug use.<sup>2</sup>
20. Actions under this key priority include broadening options for police diversion to health responses to encompass people facing minor charges for substance use and possession; and ensuring police are supported and equipped to implement diversionary options.

#### *Better Care Together: A plan for Queensland's state-funded mental health, alcohol, and other drug services to 2027*

21. Better Care Together outlines a plan to strengthen alcohol and other drug treatment services under the principle of health as a human right and recognising the need to respect the dignity and diversity of people requiring those health services.
22. The Queensland Government's commitment to enhancing Queensland's alcohol and other drug health support system is consistent with the diversion of more people into health services and away from the criminal justice system.

#### *Shifting Minds: Queensland Mental Health Alcohol and Other Drugs Strategic Plan 2018-2023*

23. Shifting Minds highlights the importance of opportunities to reduce involvement of people experiencing problematic drug use with the criminal justice system through diversionary programs.
24. The strategic plan recognises early drug and alcohol support and diversion away from the criminal justice system as a harm reduction strategy that has been calculated to result in a positive return on investment for every dollar spent by government on those services.<sup>3</sup>

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<sup>1</sup> Youth Justice Strategy 2019-2023, p17

<sup>2</sup> Achieving Balance: The Queensland Alcohol and Other Drugs Plan (2022 – 2027), pg 28-29

<sup>3</sup> Shifting Minds: Queensland Mental Health Alcohol and Other Drugs Strategic Plan 2018-2023, pg 14.

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### National Drug Strategy 2017 – 2026

25. The National Drug Strategy recognises the community-wide benefits of treating problematic drug use with a health-based approach rather than by law enforcement. An evidence-informed approach highlighted by the National Drug Strategy involves facilitating greater diversion of people into health interventions and away from the criminal justice system, particularly for vulnerable groups experiencing disproportionate harm.

### **Consistency with report and inquiry/review recommendations**

26. The proposed amendments also align with recommendations made by a number of inquiries and reports.

### Women's Safety and Justice Taskforce Hear her Voice Report (WSJTF)

27. The WSJTF report concluded that diversionary options for women and girls should be expanded including the greater use of adult cautions, police drug diversion and adult restorative justice conferencing where appropriate. Recommendations 97 and 98 of the report recommended that amendments be made to the PPRA to require police to consider diversionary options and to expand the scope of the PDDP respectively.

### Parliamentary Committee Inquiry into the opportunities to improve mental health outcomes for Queenslanders

28. The Committee Inquiry acknowledged strategies that provide people who use alcohol and other drugs with early support and diverts them away from the criminal justice system are beneficial for individuals and are more cost effective than punitive approaches. Recommendation 13 of the Committee Inquiry recommended that the Queensland Government review diversion initiatives for illicit drug diversion including the PDDP.

### Queensland Productivity Commission's Inquiry into imprisonment and recidivism

29. The inquiry into imprisonment and recidivism identified the high cost of current criminal justice focussed approaches to policing drug possession offences. Recommendation 34 of the inquiry specifically recommended that the Queensland Government should expand diversionary options, including the establishment of a multi-stage caution and diversion scheme for drug possession that allows for a staged response.

### Queensland Drug and Specialist Courts Review Final Report

30. The Drug and Specialist Courts Review recommended expanded pre-arrest and post-arrest options for minor drug offences, including the introduction of a multi-tiered police cautioning scheme for minor drug offences, potentially not limited to cannabis and inclusive of penalty infringement notices.
31. Specifically, recommendation 4 of the review called for the Government to consider introducing a tiered adult cautioning scheme for minor drug offences that included: a simple caution, a caution with educational material that could be delivered online and a caution with a requirement to attend or participate in a face to face or online educational program.

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### Jurisdictional comparison

32. Queensland is the only jurisdiction in Australia where there are no options for police to divert an adult for a minor drug offence involving an illicit drug other than cannabis.
33. Different states and territories have various forms of drug diversion programs for minor possession of illicit drugs other than cannabis and some drug diversion programs are more limited than others. A table summarising the approach to diversion in Australian jurisdictions is included with this briefing (Attachment 1).

### Scheme proposed in the Bill

34. The proposed amendments will change the existing framework in three ways:
  - the eligibility criteria will be amended to remove barriers to participation in the PDDP;
  - the definition of 'minor drug offence' will be expanded to include different drug types and offences; and
  - the amendments will introduce a tiered approach to drug diversion.

### Eligibility criteria

35. The Bill will change the existing eligibility criteria by:
  - removing the exclusion that applies to people with a conviction for an offence involving violence;
  - removing the requirement that a person make admissions in an electronically recorded record of interview.

#### Convictions for offences of violence

36. With the introduction of the current PDDP over 20 years ago, the only delivery option for the Drug Diversion Assessment Program was face to face. The safety of the staff delivering the Drug Diversion Assessment Program was a reason for the inclusion of this eligibility requirement. Given the availability of remote options in training delivery, the rationale for this exclusion no longer exists.

#### Admissions

37. Her Voice recommendation 99 acknowledges the barrier of admissions of guilt in diverting eligible minor drug offenders from the criminal justice system. This was cited as particularly disadvantaging Aboriginal and Torres Strait Islander people for cultural reasons.
38. A requirement for recorded admissions is not a requirement in diversion programs in a number of Australian jurisdictions (see Attachment 1).

### Changes to the definition of a minor drugs offence

39. The definition of a 'minor drugs offence' in Schedule 6 of the PPRA will be expanded to broaden the application of the drug diversion provisions to all dangerous drugs as defined by s 4 of the DMA and the unlawful possession of Schedule 4 and 8 medicines as defined under s 11 of the *Medicines and Poisons Act 2019* (MPA).
40. The expanded definition of 'minor drugs offence' will also include all offences under sections 10(1), (2), (4) and (4A) and 10A(1)(a)(b) and (c) of the DMA. This

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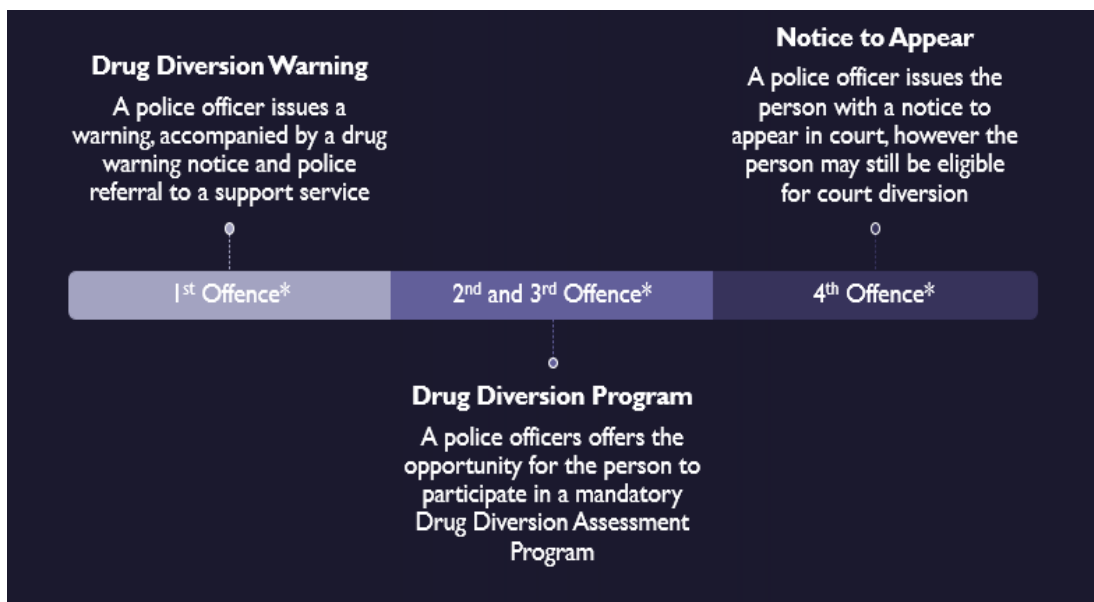
will ensure all offences relating to the possession of things used for the administration of all types of drugs, including hypodermic syringes and needles, are captured when the offending conduct involves personal use.

41. To be a 'minor drugs offence' the quantity of a dangerous drug must be less than the prescribed quantity. The *Police Powers and Responsibilities Regulation 2012* will be amended to specify these quantities. Attachment 2 to this briefing shows the quantities that are proposed to be prescribed in the regulation.

### Tiers of diversion

42. A new 'drug diversion warning' framework is proposed to provide a first-tier health intervention response allowing police to give a warning, accompanied by a drug warning notice, to eligible persons. An offer of a police referral to an external support service will also be provided.
43. To provide a second and third-tier health intervention to persons who have previously been given a drug diversion warning, the amendments will require a police officer to offer an eligible person who is arrested for a minor drugs offence, the opportunity to participate in a DDAP.
44. A person must sign an agreement to participate in the DDAP and will have a period of time, informed by Queensland Health (QH) demand modelling to complete the program. A failure to complete the DDAP will remain an offence against section 791 'Offence to contravene direction or requirement of police officer' of the PPRA.

*Table 1 - Tiers of drug diversion*



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### How the scheme applies to children

45. The YJA is the primary legislation governing the exercise of police discretion when dealing with children. Section 11 of the YJA requires police officers to consider the most appropriate way of dealing with a child before commencing proceedings. That section currently provides a range of diversion options, for example: taking no action, administering a caution or – in the case of a minor drug offence – drug diversion.
46. The amendments in the Bill provide that where an adult meets the eligibility criteria for a minor drugs offence, the application of the scheme is mandatory. Applying the framework in a mandatory way to children would constrain the ability of police officers to use the existing diversionary options in section 11 of the YJA.
47. For that reason, the Bill makes the use of drug diversion warnings and drug diversion assessment programs, in relation to children, discretionary.
48. When dealing with a child for a minor drugs offence, a police officer must still consider the range of diversionary options delineated in s 11 of the YJA. The Bill will amend the YJA to include a drug diversion warning as well as a drug diversion assessment program as diversion options available to police when dealing with a child for a minor drugs offence.

### Forfeiture of drugs

49. Currently, the police drug diversion provisions under section 379 of the PPRA require that a person who is offered and agrees to a drug diversion assessment program for a minor drugs offence must, on signing the agreement, forfeit the drug and anything used for smoking the drug, to the State.
50. The Bill replicates this power of forfeiture to ensure that where a person accepts a drug diversion warning or drug diversion assessment program offer, seized drugs and things used for their administration can be immediately scheduled for disposal by police.
51. This approach streamlines processes and reduces a significant number of risks to the QPS and resource implications for retaining drug matter for extended periods without a clear and immediate power for forfeiture.

### **Section 5 Drugs Misuse Act 1986**

52. Trafficking in dangerous drugs is made an offence by section 5 of the DMA. For the offence to apply a person must carry on the business of unlawfully trafficking dangerous drugs. The element of trafficking involves 'knowingly engaging in the movement of drugs from the source to the ultimate user'.<sup>4</sup> The element of carrying on a business requires proof of 'a continuous course of conduct engaged in to obtain a reward of a commercial character'.<sup>5</sup>
53. The trafficking of dangerous drugs results in significant economic and social harm to the community.

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<sup>4</sup> *R v Elhusseini* [1988] 2 Qd R 442 at 450.

<sup>5</sup> Supreme and District Court Benchbook – Trafficking in dangerous drugs.

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54. The Bill increases the maximum penalty for trafficking to life imprisonment. The increase to the maximum penalty for trafficking to life imprisonment will broadly align the penalty with other serious drug offences in Australia.
55. In other Australian jurisdictions (except Tasmania) a specified quantity of drugs trafficked or manufactured must be proven. In all other Australian jurisdictions (except Tasmania) life imprisonment is an available penalty for serious drug offending.

### **Section 754 PPRA – Evasion offence**

56. Section 754 of the PPRA makes it an offence for a driver of a motor vehicle to fail to stop in circumstances where they are directed to do so by a police officer (an evasion offence). An evasion offence is a serious offence on the basis that it undermines the capacity of police to enforce the laws of Queensland and because it is often committed in circumstances that are connected with other offences and where there is an element of risk to both the driver of the vehicle and the community generally.
57. The current maximum penalty that applies to an evasion offence is 200 penalty units or 3 years imprisonment.
58. The Bill amends section 754 of the PPRA to create a circumstance of aggravation where:
  - the offence is committed at night;
  - the driver of the motor vehicle uses or threatens violence;
  - the driver of the motor vehicle is armed or pretends to be armed;
  - the driver of the motor vehicle is in company;
  - the driver of the motor vehicle damages or threatens to damage any property; or
  - the driver of the motor vehicle has previously been convicted of an offence under section 754 of the PPRA; section 408A of the Criminal Code; section 427 of the Criminal Code; or Section 328A of the Criminal Code.
59. In such circumstances, a maximum penalty of 5 years imprisonment and 300 penalty units will apply.

### **Disposition**

60. Clause 16 of the Bill further amends the PPRA to address the jurisdiction and disposition of the aggravated offence. The Bill provides that an evasion offence with a circumstance of aggravation may be heard and decided summarily at the election of the prosecution. Where such an offence is heard summarily, the maximum term of imprisonment that can be given is 3 years, consistent with general sentencing limits in the Magistrates Court.
61. However, if the court is satisfied that it cannot adequately punish the offender due to the seriousness or nature of the offence it must abstain from hearing the charge and conduct the proceedings as a committal proceeding under the *Justices Act 1886*.

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### **Exception from notice scheme – 756(9)**

62. Sections 755 to 756 of the PPRA provide a type 1 vehicle offence notice scheme to assist in the investigation of type 1 vehicle offences. An evasion offence is a type 1 vehicle offence.
63. Section 756 'Who may be prosecuted for type 1 vehicle related offence if no response to type 1 vehicle related offence notice' of the PPRA provides that if a person is given a type 1 vehicle related offence notice and the person does not give a statutory declaration as required, the person is taken to have been the driver of the motor vehicle involved in the relevant type 1 vehicle related offence even though the actual offender may have been someone else.
64. It is a defence for the person to prove on the balance of probabilities that the person was not the driver of the motor vehicle involved in the offence when the offence happened.
65. However, the person is prevented from relying on evidence that is information the person was required to include in the statutory declaration unless the person gives the prosecuting authority a notice of the person's intention to seek leave to rely on the evidence at least 21 business days before the hearing starts.
66. Under the existing law, an exception exists for a type 1 vehicle related offence that is an offence against section 328A of the Criminal Code. In such cases, the court can grant leave to the person to rely on evidence they would otherwise be prevented from relying on, if the interests of justice require that the person should be able to rely on the evidence.
67. Given a higher penalty will apply to evasion offences when a circumstance of aggravation is charged, clause 17 of the Bill extends this existing exemption under section 756(9) to apply to an evasion offence involving a circumstance of aggravation.

### **Executive Officer Appointments – PSAA**

68. Existing section 5.2 of the PSAA provides that a decision to appoint a person as a police recruit or to 'a police officer position' must be made by fair and equitable procedures including inviting applications and a selection on the basis of the merit of applicants.
69. The decision of *Lewis v Commissioner of the Queensland Police Service* [2021] QSC 169 highlighted the distinction between the rank of a police officer and a 'police officer position'.
70. This case determined that appointments for a police officer may only be made to a police officer position and not to a generic rank.
71. Executive officers are a small cohort of police officers currently comprising 4 Deputy Commissioners and 17 Assistant Commissioners.
72. Executive officers lead and manage significant components of the QPS. The nature of their role requires a degree of flexibility and responsiveness to the strategic needs of the QPS.
73. There are frequently multiple executive officer vacancies within the QPS. Historically, the QPS has invited applications and appointments have been made on the merits of applicants to the generic rank and not to a particular position.

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74. The proposed amendment will allow a person to be appointed as an executive officer either through the person's rank or position while maintaining the Government's commitment to the merit principle in the appointment of its employees.
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### **Amendments to the Fire and Emergency Services Act 1990**

#### **Section 64 and 65 of the FES Act – prescribed information**

75. Chapter 3, part 7 of the FES Act provides a framework for the control and prevention of fires. Under section 62 'Offence to light unauthorised fire', it is an offence to light an unauthorised fire. Section 67 'Occupier to extinguish fire' then provides that the occupier of land must take all reasonable steps to extinguish or control an unauthorised fire and must report the fire to specified officers.
76. Authorisation of fires is provided for under section 63 'Authorisation of fires by commissioner', which provides that the Queensland Fire and Emergency Services commissioner (QFES commissioner) may, by gazette notice, authorise the lighting of fires for purposes and in the circumstances specified. Despite any authorisation under section 63, section 64 of the FES Act provides that the QFES commissioner may prohibit the lighting of all or particular fires on land by giving a notice (prohibition notice) to the occupier of the land. Section 64(2) provides that the QFES commissioner must consider any request made by an occupier of land that a prohibition notice be given to the occupier of adjoining land, unless the commissioner believes the request is frivolous or vexatious.
77. Section 4(1) of the *Fire and Emergency Services Regulation 2011* (FES Regulation) provides that a request under section 64(2) must be made to the QFES commissioner in writing and include specified information. Section 4(2) of the FES Regulation provides that a copy of the request must be given to the occupier of the adjoining land.
78. Section 65 of the FES Act provides that a person may apply to the QFES commissioner for a permit to light a fire on any land. The application may be oral or in writing. The QFES commissioner may grant or refuse to grant an application but must refuse unless reasonable steps have been taken to notify every occupier of adjoining land of the application and provide them with an opportunity to object to the granting of the permit.
79. Section 5 'Requirements for an application for a permit to light a fire-Act, s 65(1)' of the FES Regulation provides that an application for a permit to light a fire must include specified information.
80. Although section 4 'Requirements for a request for issue of a prohibition notice-Act, s 64(2)' of the FES Regulation provides that a request that a prohibition notice be given must be in writing and a copy given to the occupier of adjoining land, section 64 of the FES Act does not provide for a regulation to prescribe requirements about how a request must be made. Further, neither section 64 or section 65 expressly provides that a regulation may prescribe information required for a request that a prohibition notice be given or an application for a permit to light a fire.
81. Section 154E of the FES Act provides broadly that the Governor in Council may make regulations under the Act. Section 154E(2) then goes on to provide for a

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number of specific matters for which Regulations may be made (without limiting the matters for which a regulation can provide). Despite the breadth of matters that regulations may be made for under section 154E, clauses 8 and 9 of the Bill will expressly provide in sections 64 and 65 that a regulation may prescribe information required for a request that a prohibition notice be given or an application for a permit to light a fire.

### **Assaulting a person performing functions or exercising powers under the FES Act**

82. Currently, section 150C of the FES Act provides that a person must not obstruct another person (an authorised person) in the performance of a function under the Act unless the person has a reasonable excuse. An offence under the provision carries a penalty of 100 penalty units or 6 months imprisonment. If a person has obstructed an authorised person and the authorised person decides to proceed with the performance of the function, the authorised person must provide a warning to the person that it is an offence to obstruct the authorised person unless the person has a reasonable excuse and the authorised person considers the person's conduct to be an obstruction. Under section 150C obstruct is defined to include abuse, assault, hinder, resist, threaten and attempt or threaten to obstruct.
83. In many circumstances involving obstructions (as currently defined under section 150C), it is considered appropriate that a warning be provided to a person that it is an offence to obstruct (without reasonable excuse), and the person's conduct is considered an obstruction. For example, a person who is standing in the path of a fire service officer or volunteer member of a Rural Fire Brigade or the State Emergency Service who is attempting to perform functions under the Act may not realise they are causing an obstruction. A warning is appropriate in those circumstances to alert the person to the effect of their actions or conduct. However, a warning is not considered necessary or appropriate in circumstances where an assault is inflicted on such a person performing those functions. Therefore, clause 10 of the Bill inserts a new offence provision (proposed section 150BA) in the FES Act 'Assault of persons performing functions or exercising powers' to ensure that a warning is not required in the circumstances of an assault.
84. Assault for the purposes of proposed section 150BA is to have the meaning given by section 245 of the Criminal Code. Assault, as defined under the Criminal Code, includes both acts of actual and threatened violence. Further, while an offence of obstruction under section 150C only arises in the absence of a reasonable excuse, no reasonable excuse element is proposed for section 150BA. It is considered that the seriousness of an assault committed against a person performing functions or exercising powers under an Act, without the other person's consent, mitigates against importing the reasonable excuse element for proposed section 150BA. Amendments to section 150C of the FES Act set out in Clause 11 of the Bill will then make the necessary amendments required to give effect to the removal of assault from that provision.
85. The amendments, including the new offence, are considered appropriate given the importance of helping to ensure that persons performing functions or exercising powers under the Act, which include safeguarding persons, property and the environment, can do so without fear of assault and that there will be

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appropriate consequences if an assault is committed on a person in those circumstances.

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### **Attachments**

1. Jurisdictional comparison of drug diversion programs
2. Proposed prescribed quantities of drugs

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**Attachment 1 - Jurisdictional comparison of drug diversion programs**

Jurisdiction	Penalty infringement Notice		Referral to education/treatment				Eligibility Criteria
	Cannabis	Other illicit drugs	Cannabis		Other illicit drugs		Admissions Required
			Adult	Youth	Adult	Youth	
Queensland (Currently)	No	No	Yes	Yes	No	No	Yes
New South Wales	No	Yes - 2 (festivals only)	Yes - 2	Yes#	No	Yes#	
Victoria	No	No	Yes - 2	Yes#	Yes - 2	Yes - 2	Do not deny
South Australia	Yes (adult only)	No	No	Yes - limitless	Yes - limitless	Yes - limitless	No
Western Australia	No	No	Yes - 1	Yes - 2	Yes - 1	Yes#	No
Tasmania	No	No	Yes (3 in 3yrs)	Yes#	Yes (3 in 3yrs)	Yes#	Yes
ACT	Yes	No	Yes	Yes	Yes - 2	Yes - 2	Yes
Northern Territory	Yes (17yrs & over)	No	Yes-1	Yes#	Yes - 1	Yes#	Yes

**Legend**

Numerical number after Yes indicates how many opportunities are available under scheme

# Via Juvenile Justice Act (or equivalent in each jurisdiction) allows for discretionary cautioning where a diversion scheme is not available in that jurisdiction.

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**Attachment 2 - Proposed prescribed divertible quantities**

**dangerous drug** see the *Drugs Misuse Act 1986*, section 4.

**schedule 4 medicine** see the *Medicines and Poisons Act 2019*, section 11(1)(c).

**schedule 8 medicine** see the *Medicines and Poisons Act 2019*, section 11(1)(d).

**Table 1**

<b>Dangerous drug</b>	<b>Quantity</b>
If the drug is a dangerous drug as defined in section 4 of the <i>Drugs Misuse Act 1986</i> – schedule 1, part 1 or schedule 2 of the <i>Drugs Misuse Regulation 1987</i> (excluding drugs listed in table 2 and 3 below)	1.0g/ml

**Table 2**

<b>Dangerous drug</b>	<b>Quantity</b>
4-Bromo-2,5-dimethoxyamphetamine	0.02g
4-Bromo-2,5-dimethoxyphenethylamine	0.02g
Cannabis	50.0g
Fentanyl	0.0025g
Ketamine	0.2g
Lysergic acid	3 tickets or tabs*
Lysergide	3 tickets or tabs*
3,4-Methylenedioxymethamphetamine (MDMA)	4 pills or tablets or capsules**
Phencyclidine	0.2g
Psilocin	0.04g
Psilocybin	0.04g
* <b>Ticket or tab</b> means the amount of the dangerous drug, not greater than 0.000040g, that is prepared or apparently prepared to be administered as a single dose.	
** <b>Pill or capsule or tablet</b> means the gross amount of the dangerous drug, not greater than 0.7g, that is prepared or apparently prepared to be administered as a single dose.	

**Table 3**

<b>Dangerous drug</b>	<b>Quantity</b>
If the drug is a dangerous drug as defined in section 4 of the <i>Drugs Misuse Act 1986</i> – steroid drugs as defined in schedule 1, part 2 of the <i>Drugs Misuse Regulation 1987</i>	Personal use amount

**Table 4**

<b>Schedule 4 and schedule 8 medicines</b>	<b>Quantity</b>
If the drug is a schedule 4 medicine or schedule 8 medicine as defined in section 11 of <i>Medicines and Poisons Act 2019</i> .	Personal use amount