

Police Service Administration and Other Legislation Amendment Bill 2021

Explanatory Notes

Short title

The short title of the Bill is the Police Service Administration and Other Legislation Amendment Bill 2021.

Policy objectives and the reasons for them

The main objectives of the Bill are to:

- modernise the legislative framework underpinning Protective Services; and
- increase efficiencies for police officers acting as public officials under the *Forestry Act 1959*, the *Marine Parks Act 2004*, the *Nature Conservation Act 1992* and the *Recreation Areas Management Act 2006* (Queensland Parks and Wildlife Service Legislation), and in identity card administration for these Acts.

Modernising Protective Services

On 30 July 1984, the *State Buildings Protective Security Act 1983* (SBPSA) established the State Government Protective Security Service (Protective Services) which was tasked with providing security services for Queensland Government buildings. Protective Services comprises over 400 staff providing mobile and static security services for Government including:

- on site security of government property assets;
- an alarm monitoring and response service;
- mobile patrolling of property assets; and
- government identification card production.

Protective Services is responsible for the management of security services for over 80 Queensland Government buildings and 400 educational facilities, including the provision of static security at 38 courts. This is achieved in part through providing Building Services Coordinators who manage security procedures in 47 major government owned or leased buildings.

The Protective Services operations centre monitors over 2,500 alarms within Queensland and northern New South Wales and over 5,500 duress alarms across Queensland including for electoral offices. It also monitors about 700 fire detection devices as well as facilities alarms (e.g. power, air conditioning) for critical government buildings such as Queensland State Archives and the Queensland Radioactive Waste Store. Additionally, Protective Services also conducts mobile patrols of state buildings such as schools within the Brisbane, Logan and Moreton Bay regions.

To provide for the appropriate security of state buildings, the SBPSA authorises security officers to exercise certain security powers in relation to persons in or about to enter these places. Protective security officers appointed under this Act may ask an entrant to a state building to participate in screening. This includes asking an entrant to walk through a detector or pass their belongings through an x-ray scanner. A protective security officer may also ask an entrant to remove outer garments and articles from their pockets for inspection. Finally, a protective security officer may ask an entrant to park their vehicle in a place specified by the officer or to deposit their belongings at a place if the item is capable of concealing a proscribed thing such as a firearm.

Senior protective security officers, appointed under the SBPSA, have considerably more security powers than protective security officers. In a state building, a senior protective security officer has all the powers of a protective security officer and of a police officer (except for the power of arrest). In addition, a senior protective security officer may

- require an entrant to:
 - provide their name, address and reason for being in or entering the building;
 - comply with the screening process; or
 - leave the state building immediately and to take their belongings, if the entrant fails to comply with a demand for information or other direction;
- seize proscribed matter (items that can compromise the safety of persons in, or the security of a state building) found in a person's possession;
- detain a person suspected of committing:
 - an offence against the SBPSA; or
 - an offence against any other law by reason of having done anything or having had anything in the person's possession in a state building; and
- remove a person from or not permit entry to a state building, if the person fails to:
 - provide information about their name and address;
 - allow examination/inspection of garments etc; or
 - provide good and lawful reason to be in the building.

From 1984 until 2000, police officers exercised exactly the same powers as senior protective security officers under the SBPSA. However, in 2000, the powers of police officers in state buildings were relocated to the *Police Powers and Responsibilities Act 2000* (PPRA). The PPRA authorises police officers to exercise similar, but not the same, powers as senior protective security officers. In a state building, a police officer may:

- require an entrant to provide their reason for being in or entering the building;
- ask an entrant to the building to comply with the screening process;
- direct an entrant to leave a state building immediately and to take their belongings if the entrant fails:
 - to state the person's reason for being in or about to enter the building; or
 - to allow a police officer to exercise a power mentioned above;
- seize and detain proscribed matter possessed by a person except if it is lawfully in the person's possession in the course of the person's trade, business or calling; and
- remove a person from a state building or prevent their entry where the person has failed to:
 - allow examination/inspection of garments etc.
 - comply with a direction; or
 - provide a good and lawful reason to be in the building.

On 8 September 2016, the *Public Safety Business Agency and Other Legislation Amendment Act 2016* brought into effect a recommendation made in the ‘Review of the *Public Safety Business Agency*’ (the Review of the PSBA) by integrating Protective Services into the Queensland Police Service (QPS). The reasons for this recommendation included:

- the inherent value of QPS maintaining overall responsibility for public safety in Queensland, and the ability to easily coordinate response and deployment in times of emergency;
- the potential ability to use Protective Services as part of the QPS employee life-cycle, including as a platform for interested recruits who do not yet meet the entrance requirements for QPS, and providing a broader range of options to transition sworn officers; and
- the ability to access improved training and support for these officers, as the QPS already delivers these services to staff.

The QPS has reviewed the legislation that governs Protective Services, namely the SBPSA and the *State Buildings Protective Security Regulation 2008* (SBPSR) and has identified legislative changes that will:

- increase efficiencies and savings;
- further promote the integration of Protective Services into the QPS; and
- ensure the Queensland Government may meet its obligation to provide for the safety and security of people in government buildings.

Increasing the efficiency of police officers acting under Queensland Parks and Wildlife Service Legislation and efficiencies in identity card requirements

Since 2018, over 120 police officers have been appointed as a public official under Queensland Parks and Wildlife Service Legislation. This has yielded clear benefits in not only protecting public safety but also with respect to the protection of the natural, and cultural values in protected areas, state forests, declared recreation areas and marine parks, as well as better empowering police to assist with the disruption of wildlife poaching and trafficking across Queensland, some of which constitutes organised crime.

Queensland Parks and Wildlife Service Legislation requires the chief executive or the administering Minister to issue appointed police officers with identity cards that must be produced when exercising relevant powers under this legislation. This requirement is superfluous as police officers are already obliged under the PPRA to identify themselves or, if not in uniform, to produce their police identity card when exercising powers as a public official under Queensland Parks and Wildlife Service Legislation.

The amendments in the Bill will improve efficiencies through obviating the need for the chief executive or Minister administering Queensland Parks and Wildlife Service Legislation to issue identity cards to police officers or to arrange for the return of these cards when police officers cease to act as public officials for this legislation. Operational efficiencies will also be gained through clarifying that a police officer appointed as a public official under Queensland Parks and Wildlife Service Legislation may identify themselves consistent with the statutory requirements outlined in the PPRA, rather than having to produce separate identification under Queensland Parks and Wildlife Service Legislation.

Identity card requirements for state government employees of other departments appointed as public officials under Queensland Parks and Wildlife Service Legislation will also be streamlined so that a single card issued by a state government department may include these

appointments. A single identity card may also be issued by the Department of Environment and Science for a person who holds more than one appointment under Queensland Parks and Wildlife Service Legislation.

Achievement of policy objectives

The Bill achieves its objectives by amending the following legislation:

- the *Forestry Act 1959*;
- the *Marine Parks Act 2004*;
- the *Nature Conservation Act 1992*;
- the *Police Powers and Responsibilities Act 2000*;
- the *Police Powers and Responsibilities Regulation 2012*;
- the *Police Service Administration Act 1990*;
- the *Police Service Administration Regulation 2016*
- the *Recreation Areas Management Act 2006*;
- the *State Buildings Protective Security Act 1983*; and
- the *State Buildings Protective Security Regulation 2008*.

The Bill enhances the efficiency and operability of Protective Services through:

- repealing the SBPSA and SBPSR by relocating relevant provisions to the PPRA and *Police Service Administration Act 1990* (PSAA);
- amalgamating protective security officers and senior protective security officers into one group called protective services officers (PSOs);
- consolidating and rationalising the security powers that may be exercised by police officers and PSOs in state buildings including:
 - standardising the screening procedures for entrants to a state building;
 - allowing police officers to demand the name and address from an entrant to a state building;
 - authorising PSOs to direct a person who is trespassing or is disorderly in a state building to leave that place;
 - authorising PSOs to exercise the security powers currently performed by senior protective security officers in state buildings such as
 - the power to refuse entry to, or to remove persons who do not meet security requirements; and
 - the power to detain entrants who are suspected of committing offences;
- authorising PSOs to seize contraband located in the performance of their duties;
- ensuring that the statutory protections available to police officers who are required to use force in the performance of their duties extend to PSOs;
- introducing a new offence provision prohibiting the impersonation of a PSO;
- clarifying that the offence to assault or resist a PSO includes obstructing a PSO;
- expanding the QPS alcohol and drug testing regime to apply to PSOs; and
- authorising PSOs to use body-worn cameras.

In contrast to the current position which authorises senior protective security officers to exercise all the powers of a police officer (except arrest) within state buildings, the Bill focuses on authorising PSOs with those specific powers needed to provide an appropriate level of security within these areas. Further, this Bill introduces legislative safeguards associated with the exercise of these powers and reporting obligations to promote the professionalism of these officers.

Repealing the SBPSA and the SBPSR through relocating relevant provisions to the PPRA and the PSAA

The legislative framework that provides for the administration of Protective Services and the powers that relate to the security of state buildings are found in the SBPSA, the SBPSR, the PPRA and the PSAA. It is proposed that the SBPSA and the SBPSR be repealed and appropriate provisions relocated to the PSAA and the PPRA.

Consolidating Protective Services legislation within the PPRA and the PSAA has the following advantages:

- it reflects the Review of the PSBA's recommendation that Protective Services (then known as State Government Security Services) is integrated into the QPS;
- it will streamline legislation through eliminating duplicate provisions in multiple Acts and allow the PPRA to be considered the 'single source of truth' about the exercise of security powers in state buildings; and
- it promotes efficiencies, as policy and training may be developed about security powers in state buildings for both police officers and PSOs.

Amalgamating protective security officers and senior protective security officers into one group called PSOs

Queensland is the only Australian jurisdiction that differentiates between protective security officers and senior protective security officers by the powers that each group may exercise. Protective security officers may only function effectively in the presence of a senior protective security officer who may exercise the full range of powers under the SBPSA. For example, a protective security officer is not authorised to seize any proscribed matter that they may find and cannot demand the entrant provide their personal details or the reason why they wish to enter into a state building. If the entrant declines to be screened or allow their property to be searched, the protective security officer cannot direct the person to leave the state building or remove them. Those powers may only be exercised by a senior protective security officer.

The Bill will amalgamate protective security officers and senior protective security officers into a new category of officer namely a 'protective services officer' (PSO). All PSOs will be authorised with the security powers currently afforded to senior protective security officers.

Consolidating and rationalising the security powers that may be exercised by police officers and PSOs in state buildings

Current Screening Practice

Under the SBPSA, a security officer may ask an entrant to a state building to participate in the security screening process and inspection of their belongings. If the entrant refuses this request, a senior protective security officer may direct the entrant to participate in the screening process and inspection of their belongings. However, prior to doing so, the senior protective security officer is to inform the entrant of the entrant's right for the inspection to stop if the entrant does not want the inspection to be carried out or for the inspection to continue and the entrant is prepared to leave the state building immediately with their belongings.

If the entrant to a state building refuses to comply with the direction to allow an inspection of the entrant's belongings, the senior protective security officer may then direct the entrant to leave the state building.

The powers that may be exercised by security officers under the SBPSA contrast with the powers that may be exercised by police officers providing security to state buildings. The PPRA provides that a police officer may request an entrant to a state building to participate in the screening process and allow their belongings to be inspected. If the entrant fails to allow this to occur, the entrant may be immediately directed by the police officer to leave the area.

Proposed Screening Practice

The Bill will authorise PSOs to exercise security powers that mirror those that police officers currently employ to secure state buildings. The Bill will provide that a PSO or police officer may ask a person to participate in the screening process and allow their belongings to be inspected. If the person refuses to participate in these security measures, the person may be immediately directed by a PSO or police officer to leave the state building.

Consistent with existing safeguards, a PSO is not to give this direction, if the entrant tells the PSO:

- the entrant does not want to be screened or their belongings inspected and they are prepared to leave the state building immediately with their belongings; or
 - if the PSO has started to screen the entrant or inspect belongings, the entrant does not want the screening or inspection to continue and is prepared to leave the state building immediately with their belongings; and
- the entrant leaves the state building immediately with their belongings.

The Bill will apply PPRA safeguards to a police officer or PSO who gives a direction to an entrant to leave a state building. These officers must, if practical, warn the person failing to comply with the direction that it is an offence to fail to comply with the direction and give the person a reasonable opportunity to comply with the direction. Additionally, a police officer or a PSO may only give a direction to leave the building if the officer reasonably suspects that the direction is necessary to maintain the security of a state building. Finally, the giving of a direction will be an enforcement act under the PPRA, requiring the PSO or police officer to record this direction in a register. This measure promotes accountability and allows monitoring of the use of this power.

Allowing police officers to demand the name and address from an entrant to a state building

Areas that need a greater security overlay such as state buildings or other buildings of significance such as major airports or parliamentary precincts have specific security requirements. One requirement is the ability for authorised persons to demand an entrant's name and address.

However, currently in Queensland, only senior protective security officers have the power to demand from a person in, or about to enter, a state building the person's name and address, evidence of the person's name and address and their reason for being in or about to enter the state building. The power to demand an entrant to a state building to state their name and address does not extend to police officers.

To ensure appropriate levels of security in state buildings, it is necessary for a police officer to be able to demand of an entrant to a state building his or her name and address. Simply put, a building cannot be secured if it is unknown who is in it.

The Bill will amend the PPRA to authorise a police officer to demand the personal details of a person entering into or at a state building and the correctness of those details. Failing to comply with the demand to provide name and address details will be an offence under section 791 ‘Offence to contravene direction or requirement of police officer’ under the PPRA.

The power to require a person to state their name and address will be qualified. A person may only be required to provide their name and address if the PSO or police officer reasonably suspects it is necessary to do so to maintain the security of a state building.

Expanding the powers of PSOs in state buildings to include a power to give a direction to a person who is trespassing on or is disorderly in a state building

Currently, senior protective security officers and police officers may use force to remove from a state building a person who has no good and lawful reason for being there. Although a police officer or senior protective security officer may rely on move-on powers under the PPRA to give directions to a person who is in a public area of a state building if the person is disorderly or disruptive, there is no current express power to direct a trespasser to leave.

The Bill will authorise a PSO and a police officer to direct a person who is trespassing or acting disorderly, indecently, threateningly or offensively in a state building to leave that place. Rather than relying on force to remove trespassers, directing a person to leave an area is considered to be a less confrontational enforcement option.

This proposed power is consistent with security powers already used in Queensland and other Australian jurisdictions. For example, the *Hospital and Health Boards Act 2011* authorises security officers in Queensland hospitals to give directions to a person to leave health service land if it is reasonably believed that a person has no lawful or good reason for being present. New South Wales, Victoria, South Australia and Western Australia all make provision for directions to be given to people behaving inappropriately in certain government buildings, in particular Court precincts.

It is proposed that the exercise of this power would be considered to be an enforcement act requiring relevant information to be recorded in the register of enforcement acts. This safeguard would enhance the monitoring of its use.

Authorising PSOs to exercise the security powers currently performed by senior protective security officers such as the power to refuse entry to, or to remove persons from state buildings and the power to detain entrants who are suspected of committing offences

As previously outlined, senior protective security officers are currently authorised to remove a person from, or prevent a person from entering into a state building, if the person fails to provide information about the person’s name and address, fails to participate in screening or an inspection of the person’s belongings or fails to provide good and lawful reason to be in the building. The Bill will allow a PSO to exercise this power.

Additionally, senior protective security officers are currently authorised to detain a person suspected of committing an offence against the SBPSA or any other law by having done anything or by having had anything in the person’s possession in a state building until that person can be surrendered to a police officer for investigation of the offence. Similarly, the Bill will allow a PSO to detain an entrant reasonably suspected of committing an offence at or in

connection with the building for the time reasonably necessary to give the entrant into the custody of a police officer.

The exercise of this power will be considered to be an enforcement act requiring relevant information to be recorded in the register of enforcement acts.

Authorising PSOs to seize contraband located in the performance of their duties

Senior protective security officers and police officers are currently authorised to seize proscribed matter found in the possession of a person in a state building. Proscribed matter is defined by the SBPSA to mean an explosive substance, a firearm, a noxious or offensive substance, or an offensive weapon. Additionally, these officers may seize any item that is reasonably suspected of being evidence of an offence.

The Bill will ensure that all items that may be a security concern to a state building will be covered through expanding the definition of proscribed matter. This definition will be expanded to include replicas of explosives and weapons, and will clarify that an offensive weapon or instrument extends to items that, although they may have another use, may be used to cause injury (such as a baseball bat brandished by a person threatening to assault another etc.).

Additionally, the definition of proscribed matter will be expanded to allow the seizure of property that a person is not lawfully entitled to possess. Such items may, depending on the circumstances, include dangerous drugs or associated drug paraphernalia.

Clarifying the use of force by PSOs

The Bill will authorise a PSO to use the force that is reasonably necessary in the performance of his or her duty. This will ensure that PSOs will not be considered to have assaulted another simply through inadvertently touching a person such as whilst screening them in the performance of their duties.

Introducing a new offence provision prohibiting the impersonation of a PSO

The Bill will introduce a new offence provision to deter persons from impersonating a PSO. PSOs hold a unique position in our community as, unlike many other public officials, these officers are authorised to apply force to another. The new offence provision is necessary to ensure that the public may trust in the authority of these officers and not be misled into thinking that a person is a PSO when this is not the case. Additionally, due to their position, PSOs may access restricted areas in the performance of their duties. The new offence provision may deter an offender from disguising themselves as a PSO to defeat security measures in place in state buildings.

The proposed offence will carry a maximum penalty of 100 penalty units. This maximum penalty is consistent with the maximum penalty imposed by similar offences in Queensland including the offence of impersonating a police officer under the PSAA or impersonating a security officer under the *Hospital and Health Boards Act 2011*.

Clarifying that the offence to assault or resist a PSO includes obstructing PSO

The Bill will clarify that it is an offence to assault or obstruct a PSO in the performance of the officer's duty at or in connection to a state building. The maximum penalty for the offence of assaulting or obstructing a PSO will be increased from 10 penalty units or 6 months imprisonment to 40 penalty units or 6 months imprisonment to more appropriately reflect the seriousness of this offence.

Expanding the alcohol and drug testing regime to include PSOs

The PSAA provides a legislative framework for the random alcohol testing and targeted alcohol and drug testing of relevant persons. These relevant persons include police officers, watch-house officers and staff who work in a critical area as defined by this Act. These relevant persons may be tested in various circumstances including if they are involved in a critical incident such as a death in custody or the discharge of a firearm in circumstances that caused, or could have caused, injury to a person.

As PSOs will be authorised to use force, such as when removing persons from state buildings or when detaining persons, it is appropriate for PSOs to be subject to the QPS alcohol and drug testing regime. This will ensure that, in the unlikely event of a person dying in a PSO's custody, a critical incident investigation into the person's death will not be compromised.

Authorising PSOs to use body-worn cameras.

Body-worn cameras are an excellent method of accurately recording interactions and events which may be used to:

- collect evidence of offences; and
- assist in resolving complaints made by the public about the conduct of officials.

This amendment will clarify that it is lawful for PSOs to use body-worn cameras.

As body-worn cameras may record sounds, these cameras may fall within the ambit of a 'listening device' under the *Invasion of Privacy Act 1971*. Section 43 (Prohibition on use of listening devices) of this Act prohibits the use of listening devices to record private conversations. However, there are a number of exemptions to this offence. Exemptions include where the person recording the conversation is a party to the conversation or where the person is authorised to use the listening device under the provisions of an Act.

In the vast majority of interactions with the public, PSOs will not be engaging in private conversations. Further, in most instances where PSOs are having private conversations with members of the public, the PSO will be party to the private conversation and may rely on an exemption under the *Invasion of Privacy Act 1971* to record the conversation. However, there may be instances where a PSO's body-worn camera inadvertently records a private conversation or records a private conversation to which the officer is not yet a party. This amendment will provide an authority allowing the exemption under section 43(2)(d) of the *Invasion of Privacy Act 1971* ensuring that the PSO does not commit an offence against this Act.

Amendments to Queensland Parks and Wildlife Service Legislation

The Bill improves administrative efficiencies in relation to police officers exercising powers under Queensland Parks and Wildlife Service Legislation by:

- removing the requirement for the administering Minister or chief executive to issue an identity card to a police officer under the *Forestry Act 1959*, the *Marine Parks Act 2004* and the *Recreation Areas Management Act 2006*, (noting this exemption already applies in the *Nature Conservation Act 1992*);
- removing the requirement for police officers to produce these identity cards when exercising powers under this legislation; and
- making technical amendments to clarify that officers who cease their appointment as a public official under this legislation are not subject to the obligation to return identify cards in circumstances where these cards have not been issued to these officers.

The Bill will also amend the *Nature Conservation Act 1992* to require all conservation officers, other than police officers, to produce their identity card when exercising powers under this Act, regardless of whether the conservation officer is in uniform. Police officers who are not in uniform and appointed under the *Nature Conservation Act 1992* will continue to be required to produce their police identity card which is an existing requirement under the PPRA.

The *Forestry Act 1959* will also be amended to provide examples of how a forest officer may identify themselves when giving a direction to a person to stop or move a vehicle or vessel, prior to producing their identity card when the vehicle or vessel is stopped.

The Bill also clarifies that an identity card issued under another Act by a Minister or chief executive of a department can be used to record relevant appointments under Queensland Parks and Wildlife Service Legislation, removing the need for a separate identity card to be issued. Conservation officers under the *Nature Conservation Act 1992* who have cards issued under another Act by another department are currently ‘officers of a prescribed class’ and consequential amendments will be made to remove these provisions from the *Nature Conservation (Animals) Regulation 2020*, the *Nature Conservation (Plants) Regulation 2020* and the *Nature Conservation (Protected Areas Management) Regulation 2017* as the ability to prescribe classes of conservation officers will no longer be required.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than by legislative reform.

Estimated cost for government implementation

Any costs incurred through the implementation of the amendments in the Bill will be met through existing budgets.

Consistency with fundamental legislative principles

The amendments have been drafted with due regard to the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*. The amendments that may impact upon those principles are considered further in these notes.

Whether a Bill has sufficient regard to the rights and liberties of individuals

Amalgamation of protective security officers and senior protective security officers into one group called PSOs

The proposed amendments will amalgamate protective security officers and senior protective security officers into one group called PSOs who will be able to exercise relevant security powers currently relied upon by senior protective security officers. Although it may be argued that this will increase the number of officers capable of exercising powers against individuals in state buildings, this amendment is considered appropriate as it will enhance the efficiency of the security measures undertaken for state buildings.

Government buildings, and the staff who use them, face particular security risks. In addition to customary security concerns, the current security environment is informed by the National Terrorism Threat Level which has been elevated to ‘probable’ and is likely to remain at this level for the foreseeable future. This level indicates that Australian security agencies have assessed that individuals or groups continue to possess the intent and capability to conduct a terrorist attack in Australia. This threat is elevated for governments or authorities, in particular the military, police and security agencies as specific symbolic appeals for attacks have been made against these agencies. Members of the public and government employees have the right to use, access and enjoy government buildings in safety. The security measures undertaken by Protective Services will be enhanced through the proposed amendments and are balanced to reflect the rights of the individual when accessing public buildings against the public interest of ensuring that these spaces are safe for all members of the community.

Any concern about the infringement of an individual’s rights in this regard are mitigated through the safeguards that are associated with the exercise of security powers. For example, if a PSO intends to touch the garments of an entrant to a state building to detect articles during the screening process, the PSO may only touch the garment if they are of the same sex as the entrant.

Power of a police officer to require an entrant to state buildings to provide their name

Currently, only senior protective security officers have the power to demand the name of a person in or about to enter into a state building. Although a police officer may ask an entrant to a state building to provide their reason for entering, a police officer does not have the power to require the person to provide their name. This can impact upon a police officer’s ability to effectively secure a state building. For example, police may receive information that a person who presents a security risk will be attending at a state building. Without a power to demand an entrant’s name, police at a state building may locate a person who matches the person of interest’s description but be unable to confirm that the person is actually the person of interest.

It may be argued that affording a police officer the power to demand of a person their personal details may infringe upon the person's right to privacy. However, this power is a standard security measure customarily used in all jurisdictions in Australia and this amendment will ensure that security powers may be consistently applied in state buildings by PSOs and police officers. Concerns about the use of this power is further mitigated through the Bill qualifying the use of this power. An entrant to a state building may only be required to provide their name and address if the officer reasonably suspects it is necessary to do so to maintain the security of a state building. This is consistent with directions given by police officers at other locations. For example, at major airports such as at Brisbane, Cairns and the Gold Coast, a police officer may require a person to provide their name and address if the officer considers it necessary to safeguard the public order and safe operation of that, or another, major airport.

Power for PSOs to direct a person to leave a protected place if the person is trespassing or is disorderly in that place

Currently, there is no express power for a security officer under the SBPSA to give a direction to a person who is trespassing in a state building to leave that area. However, it may be argued that section 19 of the SBPSA authorises a senior protective security officer to give a move-on direction to disorderly or disruptive persons in a public area of a state building. The proposed amendment will clarify that a direction can be given by a PSO to a person who is disorderly or trespassing in a state building. Although it may be considered that the giving of a direction of this nature infringes on an individual's rights, this infringement is outweighed by the rights of the community and government employees to safely use and enjoy government buildings.

Concerns about the impact of this amendment upon the rights of an individual are mitigated as this amendment may only apply to a restricted cohort of persons (namely persons who have not complied with appropriate security measures or are otherwise acting inappropriately) and officers giving relevant directions are obliged to comply with legislative safeguards.

Authorising PSOs to exercise the security powers currently performed by senior protective security officers such as the power to refuse entry to, or to remove persons from state buildings and the power to detain entrants who are suspected of committing offences

This Bill will allow a PSO to exercise the power a senior protective security officer may currently employ to prevent a person from entering or remaining in a state building and to detain suspects in state buildings. Provisions relating to these powers were drafted with due regard to fundamental legislative principles through the *Law Courts and State Buildings Protective Security Amendment Act 1998*.

It may be argued that a person's rights may be impinged through the operation of these powers either by being denied entry to a state building through not complying with security requirements for these areas or through being detained as a consequence of being suspected of committing offences in connexion with a state building. Any concerns about the impingement of these rights are outweighed by the need to provide appropriate security measures in state buildings so that the persons who use these areas may do so in safety.

Power to seize

Currently, senior protective security officers and police officers may seize proscribed matter found in the possession of a person in a state building. Proscribed matter is defined by this SBPSA to mean an explosive substance, a firearm, a noxious or offensive substance, or an offensive weapon. Further, senior protective security officers and police officers may seize property that is reasonably suspected of being evidence of the commission of an offence.

The proposed amendments will expand the current definition of proscribed matter to include all weapons under the *Weapons Act 1990* (including replicas of weapons and explosives) and anything the person is not lawfully entitled to possess (such as dangerous drugs).

Although it can be argued that seizing contraband may infringe on a person's rights, that argument is predicated on the basis that the person is in lawful possession of that contraband. Any concerns about the proposed amendment infringing upon a person's individual rights will be mitigated as the seizure of property will involve property that inherently threatens the safety and security of a state building or is property that is being possessed unlawfully.

Introducing a new offence provision prohibiting the impersonation of a PSO

It may be argued that the Bill impacts upon a person's rights and liberties by potentially making a person liable for the new offence of impersonating a PSO. However, this proposed offence is designed to simultaneously promote the public's trust in PSOs while enhancing the security of state buildings by deterring offenders from pretending to be PSOs. The benefits of these objectives greatly outweigh any detriment caused to an individual through the introduction of this new offence.

Legislation should not confer immunity from proceeding or prosecution without adequate justification

Authorising PSOs to use body-worn cameras.

As outlined above, the Bill will provide PSOs with an exemption to the general prohibition on recording private conversations under section 43(2)(d) of the *Invasion of Privacy Act 1971*. It may be argued that this amendment touches upon a fundamental legislative principle in that legislation should not confer immunity from proceeding or prosecution without adequate justification.

However, this amendment is justified as the use of body-worn cameras is recognised as an important method of documenting events. Body-worn cameras may provide incontrovertible evidence that may be used in investigating offences or in resolving discipline matters. Use of this technology has been adopted by a range of government officials and in private industry.

In the vast majority of private conversations recorded by a body-worn camera the PSO will be a party to the conversation and therefore have the right to record the conversation under the *Invasion of Privacy Act 1971*. Notwithstanding this, it cannot be excluded that a PSO's body-worn camera may inadvertently or unexpectedly record a conversation to which the officer is not a party at that time. It is reasonable, in these circumstances, that a PSO should be protected from liability arising from using a body-worn camera in accordance with the amendments in the Bill.

Consultation

A consultation draft of the Bill was circulated with the following key stakeholders:

- the Bar Association of Queensland;
- the Chief Justice of the Supreme Court of Queensland;
- the Chief Judge of the District Court of Queensland;
- the Chief Magistrate of the Magistrates Court of Queensland;
- the Queensland Human Rights Commission;
- the Queensland Law Society;
- the Queensland Police Commissioned Officers' Union of Employees;
- the Queensland Police Union of Employees; and
- the Together Union;

Stakeholder feedback was taken into account in finalising the Bill.

Consistency with legislation of other jurisdictions

Across Australia, jurisdictions have legislated specific security measures that provide for the safety of certain government areas. These measures include:

- demanding name and address details of an entrant and their reason for entry;
- screening a person entering or in the protected area either by electronic screening and/or a frisk search;
- inspecting a vehicle and its contents entering or in the protected area;
- seizing contraband;
- directing a person to leave the protected area if the person does not comply with security arrangements; and
- removing a person who has failed to comply with directions, from the protected area.

The amendments in the Bill are consistent with the security measures outlined in legislation in other jurisdictions.

Notes on provisions

Part 1 Preliminary

1. Short title

Clause 1 provides that, when enacted, the Act may be cited as the *Police Service Administration and Other Legislation Amendment Act 2021*.

2. Commencement

Clause 2 provides that part 2, part 4 and part 1 of schedule 1 of the Act will commence upon proclamation. The remaining provisions will commence on assent.

Part 2 Amendments relating to protective services officers

Division 1 Amendment of Police Powers and Responsibilities Act 2000

3. Act amended

Clause 3 states that this division amends the *Police Powers and Responsibilities Act 2000*.

4. Replacement of ch 19, pt 1 (Directions in state buildings)

Clause 4 omits the current part 1 (Directions in state buildings) of Chapter 19 and inserts part 1 (State buildings). This part consists of sections 549 to 560 which are explained below:

Part 1 State buildings

Division 1 Preliminary

549 Meaning of *state building*

The new section 549 defines a state building. A state building is any building or part of a building owned or occupied by the State or a non-commercial authority of the State. An example of a building occupied by the State would include a building leased by the State and used for a court of record of the State.

The new section 549 provides a state building includes its ‘precincts’ which are defined to include:

- a forecourt or other similar place;
- a yard or other area used in conjunction or associated with the building;
- if the building has been prescribed as a state building, an area within the boundaries of the building;
- if the building is aligned next to a public place, any wall, fence or other structure along the alignment; and
- any area above or below the foundation, walls, roof or other part of the building.

A ‘non-commercial authority of the State’ is defined in schedule 6 (Dictionary) by a later amendment in the Bill to mean an authority of the State that is non-commercial within the meaning of section 2C of the *Competition and Consumer Act 2010* (Cwlth).

If a state building is only part of an entire building, a reference to a state building includes those areas that the State or non-commercial authority may lawfully use with other owners or occupiers of the building.

A state building may also be prescribed by regulation. However, a regulation may only be made if the area to be prescribed is used for an activity in which the State is directly concerned. For example, in circumstances where the State has the responsibility for the security of visiting dignitaries, a regulation may be made to prescribe part of a privately owned Queensland resort being occupied by the dignitaries as a state building for the period of their stay at the resort.

Division 2 Screening of entrants to state buildings

550 Power to require name and address and reason for entry

The new section 550 authorises a police officer or PSO to require an entrant to a state building to provide:

- the entrant’s name and address;
- the entrant’s reason for being at, or about to enter the building; and
- evidence of the correctness of the stated name or address.

This power may only be exercised if the police officer or PSO reasonably suspects that the requirement is necessary for the security of the state building. The term ‘security of the state building’ is defined by a later amendment to include the safety of entrants to the building, the safety of things in or about to be brought into the building and the good order or safe operation of the building.

This section does not limit or otherwise affect division 1 (Powers relating to name and address) of part 4 (Power to require name, address or age) or part 5 (Directions to move on) of chapter 2. This means that, for example, the power to require a name under the new section 550 cannot be used for the express purpose of obtaining a person’s details to give a move-on direction to a person in a state building.

551 Use of electronic screening devices

The new section 551 authorises a police officer or PSO to ask an entrant to a state building to participate in the screening of the entrant by walking through a walk-through detector and allowing a hand-held scanner to pass in close proximity to the entrant. Further, this section authorises the police officer or PSO to ask the entrant to allow the entrant’s belongings to be passed through an X-ray machine and for a hand-held scanner to pass in close proximity to the belongings.

552 Power to inspect entrant’s belongings

The new section 552 outlines how police officers and PSOs may inspect entrants and their belongings in state buildings. This section applies regardless of whether an entrant or the entrant’s belongings have been subjected to electronic screening and if the police officer or

PSO tells the entrants of the grounds for making the request. The police officer or PSO may ask the entrant to:

- allow the officer to inspect the entrant's belongings;
- remove outer garments worn by the entrant;
- remove all articles from the entrant's clothing;
- open articles for inspection;
- if the entrant's belonging is a vehicle:
 - move the vehicle and park it where specified by the officer;
 - open a vehicle for inspection; and
 - remove an article from the vehicle as specified by the officer and allow the officer to inspect it; and
- if the item is reasonably believed to be capable of concealing proscribed things – deposit the property as specified by the officer.

553 Safeguards for inspection of entrant's belongings

The new section 553 provides that a police officer or PSO conducting an inspection of an entrant's belongings must ensure that the inspection occurs in a way that causes minimum embarrassment to the entrant and that reasonable care is taken to protect the dignity of the entrant. This may involve moving a person to a place out of public view to conduct the inspection, if reasonably practicable.

This section also provides that a police officer or a PSO may only touch a garment the entrant is wearing if the officer is the same sex as the entrant. If the officer is not the same sex as the entrant, the officer may arrange for another adult of the same sex as the entrant to touch the garment worn by the entrant.

554 Direction to leave state building

The new section 554 authorises a police officer and a PSO to give an entrant a direction to leave a state building or not to enter a state building if it is reasonably suspected that:

- the person is in or about to enter a state building and the person is disorderly, indecent, offensive, or threatening to a person entering, at or leaving the state building;
- the person has no good and lawful reason (i.e. trespass) for entering or being in a state building;
- if the entrant fails to state the person's name and address and reason for being in or about to enter the building; or
- if the entrant refuses to participate in the screening or inspection process.

Without limiting the direction that may be given, a direction may require a person to:

- leave the state building and not return or be within the state building within a stated reasonable time of not more than 24 hours;
- leave a stated part of the state building and not return or be within the stated part of the state building within a stated reasonable time of not more than 24 hours; or
- move from a particular location at or near the state building for a stated reasonable distance, in a stated direction, and not return or be within the stated distance from the place within a stated reasonable time of not more than 24 hours.

These directions may only be given if the police officer or PSO reasonably suspects the requirement is necessary to maintain the security of a state building. Additionally, a direction given to a person or group of persons must be reasonable in the circumstances and must not

interfere with a person's right of peaceful assembly unless it is in the interests of public safety, public order or the protection of the rights and freedoms of other persons.

A PSO is not to give a direction to an entrant to a state building if the entrant is about to be subject to screening or to having their belongings inspected and the entrant tells the PSO that they do not want an electronic screening device to be used in relation to themselves or their belongings under section 551 or do not want their belongings inspected in accordance with section 552 and are prepared to leave the building and the person leaves the building immediately with their belongings.

Similarly, a PSO is not to give a direction to an entrant to a state building if the PSO has started to use an electronic screening device or conduct an inspection under sections 551 or 552 respectively, and the entrant tells the PSO that they do not want this to continue any further and is prepared to leave the state building and the person leaves the state building immediately with their belongings.

Later amendments in the Bill provide offences that will apply to a person who does not comply with a direction given in accordance with this amendment. These offences will carry a maximum penalty of 40 penalty units for contravening a direction given by police officer and a maximum penalty of 20 penalty units for contravening a direction given by a PSO. This is consistent with the maximum penalties for analogous provisions under other legislation such as section 186 (Offence to contravene personal details requirement) of the *Hospital and Health Boards Act 2011*.

555 Power of police officers to search person or vehicle without warrant not affected

The new section 555 clarifies that this division does not affect the powers a police officer may exercise when searching a person or a vehicle without a warrant.

Division 3 Other powers relating to screening

556 Seizure of proscribed thing

The new section 556 allows a police officer or PSO to seize a proscribed thing found in an entrant's possession unless the entrant has a reasonable excuse for possessing the thing in the state building. A later amendment to schedule 6 (Dictionary) of the Act defines a proscribed thing to mean:

- an offensive weapon or instrument;
- a noxious or offensive substance; and
- property that is in unlawful possession of a person.

An offensive weapon or instrument is defined as:

- a weapon;
- an antique firearm, explosive tool, captive bolt humane killer, spear gun, longbow, sword or knife;
- an explosive;
- a replica of a thing mentioned above;
- a slingshot, a shanghai or a laser pointer; and
- a thing made or adapted, or intended for use by the person possessing the thing, to injure or incapacitate the person.

Later amendments outline the responsibilities that a police officer or a PSO has in relation to a thing seized under the new section 556. This includes the requirement for the officer seizing the thing to issue a property receipt to the person from whom the thing was seized. Further amendments also allow for the disposal of a thing seized pursuant to the new section 556.

557 Refusal of entry to and removal from state building

The new section 557 authorises a police officer or PSO to remove a person from a state building or prevent a person from entering a state building if the person has:

- failed to comply with a direction or requirement given by a police officer or PSO under chapter 19;
- refused to participate in the screening or inspection process;
- is disorderly, indecent, offensive, or threatening to a person entering, at or leaving the state building; or
- is trespassing in the state building.

A note to this section refers to the new section 615A which clarifies that a PSO may use the force that is reasonably necessary to exercise this power.

Through a later amendment, a police officer or PSO acting pursuant to this section will be considered to have performed an enforcement act requiring specific information to be entered into the register of enforcement acts.

558 Detention of entrants by protective services officers

The new section 558 authorises a PSO to detain an entrant to a state building who is suspected to have committed an offence at or in connection with the building. The person may be detained until the person is given into the custody of a police officer.

A PSO must release the person detained, if the person is no longer suspected of committing the offence that led to the person's detention. However, the person may not be released from detention, if the person is reasonably suspected of committing another offence.

Division 4 Miscellaneous

559 Protective services officer must produce identity card unless in uniform

The new section 559 provides that a PSO who is not in uniform must clearly display their identity card or produce for inspection their identity card before exercising a power under this part. However, the requirement for a PSO to display their identity card or produce their identity card prior to the exercise of a power is only to apply where it is reasonably practical to do so. For example, an entrant to a state building may unexpectedly become unduly violent making it unreasonable to expect a PSO to produce their identity card prior to exercising a power to resolve this disturbance. In such an instance, the PSO may present their identity card when reasonably practicable to do so.

This section also provides that the failure of a PSO to produce for inspection their identity card does not make the exercise of a power under this Act unlawful.

560 Relationship with other powers

The new section 560 clarifies that the provisions in part 1 of chapter 19 are not intended to limit or otherwise affect another Act or law, or any inherent jurisdiction, power or authority of a court or tribunal that regulates the conduct or presence of a person in a court, tribunal or other state building. This means that a court or tribunal, through its inherent jurisdiction, may continue to regulate its security. Further, this section clarifies that other provisions that may be used to regulate the presence of a person at a government building will continue to apply, such as sections 277 and 278 of the Criminal Code.

5. Amendment of s 609A (Use of body-worn cameras)

Clause 5 clarifies that it is lawful for PSOs to use body-worn cameras.

6. Amendment of s 612 (Assistance in exercising powers)

Clause 6 expands the operation of section 612 to include PSOs. This amendment will allow PSOs to employ assistants to help perform their duties. This clause inserts an example outlining that a PSO may call upon the services of a translator to help explain to a non-English speaking person the screening process employed in a state building.

This amendment will protect the assistant from any civil liability for acts done honestly and without negligence by virtue of section 613 (Protection for assistants from liability) of the PPRA.

7. Amendment of s 615 (Power to use force against individuals)

Clause 7 makes a technical amendment to amend the heading of section 615 to reflect that this section will only apply to police officers.

8. Insertion of new s 615A

Clause 8 inserts the new section 615A (Power to use force against individuals-protective services officers) which provides it is lawful for a PSO attempting to exercise a power, or exercising a power, under chapter 19, part 1 or another Act against an individual, and anyone helping the PSO, to use the force that is reasonably necessary to exercise that power.

The force a PSO may use under this section does not include a degree of force likely to cause grievous bodily harm or death to another.

9. Amendment of s 622 (Receipt for seized property)

Clause 9 expands the safeguard outlined in section 622 to include PSOs. A PSO seizing any property must, as soon as reasonably practicable after seizing the thing, give, or cause to be given, to the person a receipt for the thing. This receipt may be for a single thing or for all things seized and must describe the thing seized through outlining the information required under section 55 of the *Police Responsibilities Code 2012* (the Responsibilities Code). This obligation does not apply to property that is reasonably believed to be abandoned, of no value or not in anyone's possession.

10. Amendment of s 633 (Safeguards for oral directions or requirements)

Clause 10 makes a technical amendment to amend the heading of section 633 to reflect that this section will only apply to police officers.

11. Insertion of new s 633A

Clause 11 inserts the new section 633A (Safeguards for oral directions or requirements—protective services officers) which applies a safeguard in relation to protective services officers giving someone an oral direction or requirement under chapter 19. If a person fails to comply with a direction or requirement given by a PSO and if it is practicable, the officer must warn the person it is an offence to fail to comply with the direction or requirement unless the person has a reasonable excuse. The PSO must give the person a further reasonable opportunity to comply with the direction or requirement.

12. Amendment of s 636 (Police officer to give notice of damage)

Clause 12 makes a minor amendment to the heading of this section to reflect that this clause expands section 636 to include PSOs. This amendment improves upon the current obligation that a security officer has to give notice of damage under the SBPSA. Currently, this notice is only required to be given if damage is caused through the exercise of section 21A or 21B of the SBPSA. However, there may be instances where property may be damaged by senior protective security officers whilst exercising other powers under the SBPSA, such as when removing a person from a state building.

The proposed amendment is more expansive as it will oblige a PSO to give written notice whenever damage is caused through the exercise of a power under this or another Act. However, notice of damage is not required where the damage is trivial, or the thing damaged has been abandoned.

13. Amendment of s 678 (Register of enforcement acts)

Clause 13 amends section 678 to require the police service to ensure the register of enforcement acts is kept in a way that enable PSOs to comply with this Act.

14. Amendment of s 679 (Who must record information in register)

Clause 14 expands section 679 by providing that a PSO who does an enforcement act must record in the register of enforcement acts information required under the Responsibilities Code as soon as reasonably practicable after the act is done.

15. Amendment of s 686 (Application of pt 3)

Clause 15 is one of a series of amendments introduced by the Bill that formalises the responsibilities that PSOs have in relation to property in their possession. PSOs may come into possession of property in a myriad of ways including:

- holding property on bailment;
- receiving lost property;
- finding abandoned property;
- seizing proscribed things that:
 - may be evidence of an offence such as dangerous drugs, weapons etc.;

- has no intrinsic value; or
- has value and its possession doesn't constitute an offence.

Part 3 of Chapter 21 of the PPRA will apply to property that is held on bailment by a PSO to the extent that the PSO has an obligation to keep property in a safe place.

Abandoned or lost property that comes into the possession of a PSO may be forfeited to the State if the Commissioner is satisfied that it is of no value. Otherwise, property that is lost or abandoned may be disposed of pursuant to section 718 'Order for forfeiture of particular relevant things' of the PPRA.

Finally, proscribed things that are not considered to be evidence of the commission of an offence may be dealt with subject to section 714 of the PPRA.

Clause 15 amends section 686 (Application of part 3) of the PPRA to expand the application of part 3 (Dealing with things in the possession of police service) of Chapter 21 (Administration) of the PPRA to include PSOs. This is achieved by expanding section 686(1) to define a relevant thing as a thing that is lawfully in the possession of the police service if it is seized by a PSO or otherwise came into the possession of a PSO in the course of performing the officer's functions.

This clause also inserts a new section 686(2)(k) of the PPRA. Section 686(2) of the PPRA lists the types of property that part 3 does not apply to. The new subsection will expand this list to include property in the possession of a PSO for the time it is held under bailment. An example of a thing that may be held under a bailment may be a coat handed to a PSO by a person who is visiting a state building. If a PSO is reasonably satisfied that the property has been abandoned, part 3 of the Chapter 21 may be relied upon to dispose of the property.

16. Amendment of s 688 (Responsibilities of police officer taking possession of relevant thing)

Clause 16 makes a PSO responsible for the safekeeping of the thing until it is delivered to a property point or property officer unless the thing is:

- returned, destroyed or disposed of under this part; or
- is delivered to a police officer.

Under section 688 of the PPRA, the Commissioner must ensure that reasonable inquiries and efforts will be made to locate anyone lawfully entitled to possession of the thing and to facilitate its lawful disposal or its return to its owner.

17. Amendment of s 691 (Return of relevant things)

Clause 17 will expand the operation of section 691 (Return of relevant things) of the PPRA to include PSOs. A PSO must return a relevant thing to the owner of the thing or the person last in lawful possession of it if the PSO is satisfied that it is not required to be retained and it is lawful for the person to have possession of it.

Further, this clause authorises a PSO who has seized the relevant thing to retain it, if necessary to:

- prevent the thing being used to cause harm to any person;
- prevent an offence or a breach of the peace; or
- prevent the thing being used for an act of domestic violence.

18. Insertion of new ch 21, pt 3, div 4AA

Clause 18 inserts a new division 4AA (Dealing with proscribed things) in part 3 of chapter 21. This new division outlines how PSOs may dispose of proscribed matter seized in the performance of their duties. This division authorises a proscribed thing seized by a PSO to be disposed of in accordance with section 714 of the PPR.

19. Insertion of new ch 23, pt 1, div 1, hdg

Clause 19 amends the heading of division 1, part 1 of chapter 23 to reflect that this division will apply to police officers.

20. Insertion of new ch23, pt 1, div 2

Clause 20 introduces the new division 2, part 1 of chapter 23 which will apply to PSOs. This division consists of the new section 791A (Offence to assault or obstruct protective services officer) and the new section 791B (Offence to contravene direction or requirement of protective services officer).

The new section 791A provides an offence to assault or obstruct a PSO who is acting in the performance of his or her duties at or in connection with a state building. This offence will carry a maximum penalty of 40 penalty units or 6 months imprisonment.

The new section 791B prohibits a person from contravening a directions or requirement given under chapter 19, part 1 by a PSO. This offence will carry a maximum penalty of 20 penalty units.

21. Amendment of s 792 (Performance of duty)

Clause 21 makes a minor amendment to insert the term ‘- police officers’ into the heading for section 792 to reflect that this section will only apply to police officers.

22. Insertion of new s 792A

Clause 22 inserts the new section 792A (Performance of duty - protective services officers) which provides that a PSO performing a function of the police service is in the performance of the officer’s duty although the function may have been performed by someone else.

23. Amendment of s 804 (Compensation)

Clause 23 expands the compensation regime outlined in section 804 to address a loss caused by the exercise of a power under part 1 of chapter 19 by a PSO. This amendment will have the effect of making the compensation regime for PSOs consistent with that used for police officers.

24. Amendment of s 809 (Regulation-making power)

Clause 24 clarifies that regulations may be made about the responsibilities of PSOs and PSOs (in training).

25. Insertion of new ch 24, pt 23

Clause 25 inserts a new part 23 (Transitional provision for Police Service Administration and other Legislation Amendment Act 2021) into chapter 24. This part consists of the new section 892 (Proceedings for offences against repealed Act). Part 23 will allow a proceeding for an offence against the repealed *State Buildings Protective Security Act 1983* to be started or continued as if the *Police Service Administration and Other Legislation Amendment Act 2021* had not commenced.

26. Amendment of sch 6 (Dictionary)

Clause 26 inserts new definitions into schedule 6 (Dictionary). The term ‘belongings’ is broadly defined to cover a range of items. The definition of belongings of an entrant to a state building includes the following:

- an article worn by the entrant;
- an article carried by the entrant, including, for example, an article in a pocket of the entrant’s clothing;
- an article pushed or pulled by the entrant;
- a vehicle driven by the entrant or another vehicle being towed by the entrant; or
- the contents of an article or vehicle as mentioned above.

Additionally, the definition of enforcement act is expanded to include directions given under section 533, the removal of an entrant to a state building under section 557 and the detention of an offender or suspect under section 558.

A ‘non-commercial authority of the State’ is defined to mean an authority of the State that is non-commercial within the meaning of section 2C of the *Competition and Consumer Act 2010* (Cwlth).

This clause also expands the definition of ‘proscribed thing’ to mean:

- an offensive weapon or instrument;
- a noxious or offensive substance; or
- another thing in the unlawful possession of the person possessing the thing.

The expansion of the definition of proscribed thing clarifies that a PSO may seize such items as dangerous drugs or associated drug paraphernalia found in the unlawful possession of an entrant to a state building.

The definition of ‘offensive weapon or instrument’ is also expanded to cover a range of items of concern that may be brought into a state building. An offensive weapon or instrument includes:

- a weapon;
- an antique firearm, explosive tool, captive bolt humane killer, spear gun, longbow, sword or knife;
- an explosive;
- a replica of a thing mentioned above;
- a slingshot or shanghai;
- a laser pointer; and
- a thing made or adapted, or intended for use by the person possessing the thing, to injure or incapacitate another person.

A 'noxious substance' is defined to mean a thing made or adapted, or intended for use by a person to:

- assault another, other than by injuring or incapacitating the other person;
- damage property; or
- disrupt the activities normally conducted within the state buildings. An example of how this could occur would include the interruption of court proceedings.

The security of a state building is defined to include the safety of entrants to the building, the safety of things in, or about to be brought into the building and the good order, or safe operation of the building.

The current definition of an entrant outlined in schedule 6 (Dictionary) will not be amended. An entrant to a state building will continue to mean a person who is about to enter or is at the building.

Division 2 Amendment of Police Powers and Responsibilities Regulation 2012

27. Regulation amended

Clause 27 provides that this division will amend the *Police Powers and Responsibilities Regulation 2012*.

28. Insertion of new pt 4C

Clause 28 inserts the new part 4C (State buildings). This part inserts the new section 20G (State buildings – Act, s 549) which prescribed the Queensland Cultural Centre and the offices of Legal Aid Queensland within the Brisbane central business district (the Brisbane CBD) as state buildings.

29. Insertion of new sch 1A

Clause 29 inserts the new schedule 1A (Land on which state buildings are located) which describes the boundaries of the Queensland Cultural Centre and the offices of Legal Aid Queensland in the Brisbane CBD within part 1 and part 2 respectively.

30. Amendment of sch 9 (Responsibilities Code)

Clause 30 outlines the information that must be recorded in the register of enforcement acts for:

- a direction given by PSOs or police officers pursuant to section 554 of the Act;
- the removal of an entrant from a state building pursuant to section 557 of the Act;
- preventing an entrant from entering a state building pursuant to section 557 of the Act; and
- the detention of an entrant to a state building by a PSO pursuant to section 558 of the Act.

Division 3 Amendment of Police Service Administration Act 1990

31. Act amended

Clause 31 provides that this division amends the *Police Service Administration Act 1990*.

32. Amendment of s 1.4 (Definitions)

Clause 32 inserts a new definition for a PSO and a PSO (in training). This clause provides that a ‘protective services officer’ and a ‘protective services officer (in training)’ will mean a person appointed under sections 5.19(1)(a) and 5.19(1)(b) respectively.

33. Amendment of s 2.3 (Functions of service)

Clause 33 will expand the functions of the Queensland Police Service to include the provision of services for the security of state buildings.

34. Amendment of s 2.5 (Administration of staff members)

Clause 34 amends section 2.5(1) which outlines the categories of persons who are considered to be staff members in the QPS. This section provides that these members are subject to the Commissioner’s directions when performing their duties. This amendment will expand this section to include PSOs and PSOs (in training).

35. Amendment of s 5.1 (Ranks)

Clause 35 makes a minor technical amendment to comply with contemporary drafting practices.

36. Insertion of new pt 5, div 3

Clause 36 inserts the new division 3 (Protective services officers) of part 5 which consist of the new sections 5.19 to 5.24 that are explained below:

Division 3 Protective services officers

5.19 Appointment of protective services officers

The new section 5.19 provides that the Commissioner may appoint a person, other than a police officer, to be a PSO or a PSO (in training). The commissioner may only appoint a person as a PSO if the commissioner is satisfied the person has the appropriate qualifications and experience to perform the functions of a PSO. The commissioner will be satisfied that a person qualifies for appointment as a PSO if the person has:

- successfully completed a course of training approved by the commissioner; or
- the appropriate qualifications, standing or experience for performing the functions of a PSO.

The new section 5.19 also confirms that PSOs and PSOs (in training) are employed under the *Public Service Act 2008*.

5.20 Ranks

The new section 5.20 outlines that the ranks of PSOs are prescribed by regulation. A later amendment will prescribe the ranks of a PSO to be a protective services officer and a senior protective services officer.

5.21 Issue of identity card

The new section 5.21 provides that the commissioner must issue an identity card to every PSO. The identity card is to include the following information:

- the PSO's name;
- the officer's photograph;
- that the person is a PSO; and
- the date the card expires.

5.22 Oath of office for protective services officers

The new section 5.22 outlines that a PSO or senior PSO is to make the oath or affirmation as prescribed by regulation before the officer commences duty in that role.

5.23 Functions of protective services officers

The new section 5.23 outlines that the primary function of PSOs is to maintain the security of state buildings through using the systems formulated for that purpose such as systems for the entry of vehicles into state buildings and the parking of vehicles. This new section also provides that the functions of a PSO may include the provision of security services on a commercial basis to buildings other than state buildings and when exercising a power or another function given to a PSO under this or another Act.

5.24 Duties of protective services officers

The new section 5.24 outlines certain duties of PSOs. This section confirms that a PSO is subject to the directions and orders of the Commissioner. Further, a PSO performing functions as a duty officer in a state building must remain on duty in the building until authorised to leave the building by the Commissioner or until relieved by another PSO. This section clarifies that it is permissible for a duty officer to leave a state building if doing so is in the performance of the officer's duties. Additionally, a PSO must take up duty in an emergency if directed by the Commissioner unless the officer has a reasonable excuse.

37. Amendment of s 5A.3 (Persons to whom pt 5A applies)

Clause 37 will expand the QPS Alcohol and Drug Testing Regime to include PSOs and PSOs (in training) by nominating these officers as relevant persons under Part 5A (Alcohol and drug tests) of the PSAA.

38. Amendment of s 10.13 (Surrender of equipment)

Clause 38 expands the operation of section 10.13 (Surrender of equipment) to a PSO. This will allow the Commissioner to direct a person who is no longer a PSO to return specified equipment. A warrant may be issued to recover items that have not been returned.

39. Amendment of s 10.19 (Offences)

Clause 39 makes a technical amendment to the heading of section 10.19 to reflect that this section will only apply to offences relating to police officers.

40. Insertion of new s10.22

Clause 40 inserts the new section 10.22 (Impersonating protective services officer) which prohibits the impersonation of a PSO. This new offence will carry a maximum penalty of 100 penalty units.

41. Amendment of s 10.23 (Proceedings for offences)

Clause 41 amends section 10.23 to allow a proceeding for prosecution in respect of an offence against the new section 10.22 to be taken summarily on the complaint of any police officer.

42. Insertion of new pt 11, div 13

Clause 42 inserts the new division 13 (Transitional provisions for Police Service Administration and Other Legislation Amendment Act 2021) which consists of sections 11.35 (Definitions for division), 11.36 (Protective security officer), 11.37 (Senior protective security officer (in training)), 11.38 (Senior protective security officer) and 11.39 (References to repealed Act).

The effect of these transitional provisions is that upon commencement of the amending Act and the consequent repeal of the *State Buildings Protective Security Act 1983*, a protective security officer, a senior protective security officer (in training) and a senior protective security officer appointed under the repealed Act will be considered to be a protective services officer, a protective services officer (in training) or a senior protective services officer under the PSAA respectively.

Additionally, section 11.39 provides that a reference in an Act or a document to the repealed Act may, if the context permits, mean a reference to the PSAA.

Division 4 Amendment of Police Service Administration Regulation 2016

43. Regulation amended

Clause 43 provides that this division amends the *Police Service Administration Regulation 2016*.

44. Insertion of new pt 2, div 1, hdg

Clause 44 inserts the new division heading, '**Division 1 Police officers**'.

This amendment will allow a differentiation between the oaths and affirmations made by police officers under division 1 and the oaths and affirmation that may be made by PSOs under the new division 2 introduced through a later amendment.

45. Amendment of s 4 (Oath of office)

Clause 45 makes a technical amendment to reflect that oaths of office made by police officers are made pursuant to section 3.3 of the PSAA.

46. Amendment of s 5 (Affirmation of office)

Clause 46 makes a technical amendment to reflect that affirmations of office made by police officers are made pursuant to section 3.3 of the PSAA.

47. Insertion of new pt 2, div 2

Clause 47 inserts the new division 2 (Protective services officers) of part 2. This division consists of sections 6A (Oath of office-Act, s 5.22), 6B (Affirmation of office-Act, s 5.22) and 6C (Oath or affirmation) which are explained below:

Division 2 Protective services officers

6A Oath of office-Act, s 5.22

The new section 6A provides the oath of office that a person may make before the person commences duty as a PSO or senior PSO. If the person is to start performing duties at a rank other than a PSO (i.e. as a senior PSO) the oath outlined by this amendment is the same excepting that that the word 'protective services officer' is replaced with the name of the starting rank.

6B Affirmation of office-Act, s 5.22

The new section 6B provides the affirmation of office that a person may make before the person commences duty as a PSO or senior protective security officer. If the person is to start performing duties at a rank other than a PSO (i.e. as a senior PSO) the affirmation outlined by this amendment is the same excepting that that the word 'protective services officer' is replaced with the name of the starting rank.

6C Oath or affirmation

The new section 6C will allow an oath or affirmation to become a PSO or senior PSO to be taken before:

- a justice of Queensland or another State;
- the commissioner, an executive officer or a commissioned officer; or
- a member of a police force of another State capable of administering an oath or affirmation for the appointment of a police officer under the laws of that State.

This will allow for more flexibility in the appointment ceremony as currently only justices of the peace can swear-in protective security officers. The proposed amendment will potentially allow combined swearing-in ceremonies for police recruits and prospective PSOs.

48. Amendment of s 7 (Particular matters within scope of prescribed responsibility)

Section 7(w) provides that it is the responsibility of the Commissioner to provide services under the *State Buildings Protective Security Act 1983* for the security of state buildings. Clause 48

omits this section as it is superfluous due to an early amendment which makes the provision of services for the security of state buildings a function of the Queensland Police Service.

49. Insertion of new s24A

Clause 49 inserts a new section 24A (Ranks of protective services officers-Act, s 5.20) which provides that the ranks of PSOs are a protective services officer and a senior protective services officer.

Part 3 Amendment relating to identity cards

Division 1 Amendment of Forestry Act 1959

50. Act amended

Clause 50 provides that this division amends the *Forestry Act 1959*.

51. Amendment of s 17C (Issue of identity cards)

Section 17C obliges the chief executive to provide an identity card to each forest officer and plantation officer. Clause 51 provides that an identity card issued under section 17C may include other appointments made by the department on a single card. This clause also inserts new provisions that remove the requirement for an identity card to be provided to a police officer who has been appointed as a forest officer, or to a person who holds an identity card issued under another Act by a Minister or chief executive of a department that identifies the person as a forest officer.

52. Amendment of s 17D (Production or display of identity card)

Section 17D outlines that when exercising a power in the subject person's presence, a forest officer or plantation officer must produce the identity card before exercising the power and display the identity card so that it is clearly visible to the person.

Clause 52 provides that section 17D does not apply to a police officer who has been appointed as a forest officer. However, this clause also confirms that section 637 (Supplying police officer's details) of the PPRA will continue to apply, obliging a police officer who is not in uniform to produce for inspection his or her identity card if the officer exercises a power as a public official. Section 637 of the PPRA applies to a police officer who is appointed as a forest officer and is exercising a power under the *Forestry Act 1959*.

Clause 52 also provides a definition of identity card for the section, which means an identity card issued to a forest officer under section 17C or issued under another Act by a Minister or chief executive of a department that identifies the person as a forest officer. This definition clarifies that a forest officer may produce or display a single departmental identity card that includes more than one appointment.

53. Amendment of s 17E (Return of identity card)

Section 17E requires the return of the person's identity card to the chief executive when the person stops being a forest officer or plantation officer. Clause 53 clarifies that this section applies to an identity card issued under section 17C of the *Forestry Act 1959*.

54. Amendment of s 84E (Power to stop or move vehicle or vessel)

Section 84E authorises a forest officer to give a direction to a person in control of a vehicle or vessel to stop the vehicle or vessel. Section 84E(4)(a) requires the officer to identify themselves when giving the direction, and section 84E(4)(b) requires the officer to immediately produce his or her identity card for the inspection of the person in control of the vehicle or vessel once the vehicle or vessel stops.

Clause 54 provides examples of how a forest officer may clearly identify themselves when required under section 84E(4)(a). Examples include wearing a departmental uniform, displaying a departmentally issued metal badge or activating magenta lights on a vehicle displaying a logo of the department.

Clause 54 also provides that the identification requirements under section 84E(4) do not apply to a police officer who is a forest officer. Police officers appointed as forest officers will instead apply the existing provisions of section 637 (Supplying police officer's details) of the PPRA, which obliges a police officer who is not in uniform to produce for inspection his or her identity card if the officer exercises a power as a public official. Clause 54 confirms section 637 of the PPRA applies to a police officer who is appointed as a forest officer and is exercising a power under the *Forestry Act 1959*.

Clause 54 also provides a definition of identity card for the section, which means an identity card issued to a forest officer under section 17C or issued under another Act by a Minister or chief executive of a department, that identifies the person as a forest officer.

Division 2 Amendment of Marine Parks Act 2004

55. Act amended

Clause 55 provides that this division amends the *Marine Parks Act 2004*.

56. Amendment of s 54 (Issue of identity card)

Section 54 obliges the chief executive to provide an identity card to each inspector. Clause 56 provides that an identity card issued under section 54 may include other appointments made by the department on a single card. This clause also inserts new provisions that remove the requirement for an identity card to be provided to a police officer who has been appointed as an inspector, or to a person who holds an identity card issued under another Act by a Minister or chief executive of a department that identifies the person as an inspector.

57. Amendment of s 55 (Production or display of identity card)

Section 55 includes requirements for an inspector to produce or display their identity card when exercising power under the Act. Clause 57 confirms that section 55 will not apply to a police officer who has been appointed as an inspector, irrespective of whether they are in uniform.

However, this clause also confirms that section 637 (Supplying police officer's details) of the PPRA will continue to apply, obliging a police officer who is not in uniform to produce for inspection his or her identity card if the officer exercises a power as a public official. Section 637 of the PPRA applies to a police officer who is appointed as an inspector and is exercising a power under the *Marine Parks Act 2004*.

Clause 57 also provides a definition of identity card that must be produced or displayed for the section, which means an identity card issued under section 54 or issued under another Act by a Minister or chief executive of a department that identifies the person as an inspector. This definition clarifies that an inspector may produce or display a single departmental identity card that includes more than one appointment.

58. Amendment of s 58 (Return of identity card)

Section 58 requires the return of the person's identity card to the chief executive when the person stops being an inspector. Clause 58 clarifies that this section applies to an identity card issued under section 54 of the *Marine Parks Act 2004*.

59. Amendment of s 65 (Warrants-procedure before entry)

Section 65 outlines the requirements of an inspector intending to enter a place under a warrant, including identifying themselves. Clause 59 confirms that section 637 (Supplying police officer's details) of the PPRA will continue to apply to section 65(2)(a), obliging a police officer who is not in uniform to produce for inspection his or her identity card if the officer exercises a power as a public official. Section 637 of the PPRA applies to a police officer who is appointed as an inspector and is exercising a power under the *Marine Parks Act 2004*.

Clause 59 also provides a definition of identity card that must be produced or displayed for this section, which means an identity card issued under section 54 or issued under another Act by a Minister or chief executive of a department that identifies the person as an inspector.

Division 3 Amendment of Nature Conservation Act 1992

60. Act amended

Clause 60 provides that this division amends the *Nature Conservation Act 1992*.

61. Amendment of s 130 (Identity cards)

Section 130 (1)(a) obliges the administering Minister to issue identity cards to conservation officers, other than police officers or an officer of a prescribed class. Section 130 also stipulates when the identity cards must be returned once a person ceases their appointment.

Clause 61 restructures existing section 130 while maintaining existing arrangements whereby the Minister is not required to issue an identity card to a police officer who has been appointed as a conservation officer. This clause also inserts a new subsection that states that an identity card is also not required to be issued if the conservation officer holds an identity card issued under another Act by a Minister or chief executive of a department that identifies the person as a conservation officer. This new subsection replaces the intent of the existing reference to "officers of a prescribed class".

Officers of a prescribed class are referred to under section 376 of the *Nature Conservation (Animals) Regulation 2020*, section 187 of the *Nature Conservation (Plants) Regulation 2020* and section 159BK of the *Nature Conservation (Protected Areas Management) Regulation 2017*. The provisions referencing officers of a prescribed class in these regulations will be amended as per Schedule 1 as they will no longer be required.

Clause 61 also provides that an identity card issued under section 130 may include other appointments made by the department on a single card, and that the section does not prevent a single identity card being issued to a person for this Act, and other purposes, which is an existing provision in the other Queensland Parks and Wildlife Service Legislation.

62. Amendment of s 131 (Proof of authority)

Section 131 provides that a conservation officer (other than an officer who is in uniform) or an honorary protector must not exercise any power under the Act unless the officer or honorary protector produces his or her identity card for the inspection of the subject person before exercising the power or has his or her identity card clearly visible when exercising the power.

Clause 62 amends the heading of section 131 to ‘Production or display of identity card’ for consistency with the other Queensland Parks and Wildlife Service Legislation. The clause also amends section 131 so that the requirement to produce or display an identity card will apply irrespective of whether the conservation officer is in uniform. It also confirms that section 637 (Supplying police officer’s details) of the PPRA will continue to apply, obliging a police officer who is not in uniform to produce for inspection his or her identity card if the officer exercises a power as a public official. Section 637 of the PPRA applies to a police officer who is appointed as a conservation officer and is exercising a power under the *Nature Conservation Act 1992*.

Clause 62 provides a definition of identity card that must be produced or displayed for the section, which means an identity card issued under section 130 or issued under another Act by a Minister or chief executive of a department that identifies the person is a conservation officer. This definition clarifies that a conservation officer may produce or display a single departmental identity card that includes more than one appointment.

Division 4 Amendment of Recreation Areas Management Act 2006

63. Act amended

Clause 63 provides that this division amends the *Recreation Areas Management Act 2006*.

64. Amendment of s 145 (Issue of identity card)

Section 145 obliges the chief executive to issue identity cards to an authorised officer. Clause 64 provides that an identity card issued under section 145 may include other appointments made by the department on a single card.

This clause also inserts new provisions that remove the requirement for an identity card to be provided to a police officer who has been appointed as an authorised officer, or to a person who holds an identity card issued under another Act by a Minister or chief executive of a department that identifies the person as an authorised officer.

65. Amendment of s 146 (Production or display of identity card)

Section 146 provides that an authorised officer must not exercise any power under the Act unless his or her identity card is clearly visible or, before exercising the power, the officer produces his or her identity card for inspection by the subject person.

Clause 65 provides that section 146 doesn't apply to a police officer who is an authorised officer. This clause also confirms that section 637 (Supplying police officer's details) of the PPRA will continue to apply, obliging a police officer who is not in uniform to produce for inspection his or her identity card if the officer exercises a power as a public official. Section 637 of the PPRA applies to a police officer who is appointed as an authorised officer and is exercising a power under the *Recreation Areas Management Act 2006*.

This clause also provides a definition of identity card for the section, which means an identity card issued to an authorised officer under section 145 or issued under another Act by a Minister or chief executive of a department that identifies the person as an authorised officer. This definition clarifies that an authorised officer may produce or display a single departmental identity card that includes more than one appointment.

66. Amendment of s 149 (Return of identity card)

Section 149 requires the return of the person's identity card to the chief executive when the person stops being an authorised officer. Clause 66 clarifies that this section applies to an identity card issued under section 145 of the *Recreation Areas Management Act 2006*.

67. Amendment of s 156 (Warrants procedure before entry)

Section 156 outlines that before entering a place under a warrant issued under part 8 (Investigation and enforcement) under the Act, an authorised person must identify themselves or make reasonable attempts to identify themselves to an occupier of the place by producing the officer's identity card or by displaying it in accordance with section 146(1).

Clause 67 provides that section 156 doesn't apply to a police officer who is an authorised officer. This clause also confirms that section 637 (Supplying police officer's details) of the PPRA will continue to apply, obliging a police officer who is not in uniform to produce for inspection his or her identity card if the officer exercises a power as a public official. Section 637 of the PPRA applies to a police officer who is appointed as an authorised officer and is exercising a power under the *Recreation Areas Management Act 2006*.

This clause also provides a definition of identity card for the section, which means an identity card issued to an authorised officer under section 145 or issued under another Act by a Minister or chief executive of a department that identifies the person as an authorised officer.

Part 4 Repeal

68. Repeal

Clause 68 repeals the *State Buildings Protective Security Act 1983*.

Part 5 Minor and consequential amendments

69. Legislation amended

Clause 69 provides for Schedule 1 which makes minor and consequential amendments for the legislation that it mentions.