Police Powers and Responsibilities and Other Legislation Amendment Bill 2022

Explanatory Notes

Short title

The short title of the Bill is the Police Powers and Responsibilities and Other Legislation Amendment Bill 2022.

Policy objectives and the reasons for them

The Bill amends the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (CPOROPO Act), the *Police Powers and Responsibilities Act 2000* (PPRA), *Transport Operations (Road Use Management) Act 1995* (TORUM Act), *Summary Offences Act 2005* (SOA), *Transport Operations (Road Use Management – Vehicle Registration) Regulation 2021* (TORUM-VR Regulation). Collectively, these amendments are directed at enhancing the capacity of the Queensland Police Service (QPS) to monitor reportable offenders, investigate organised crime, including cybercrime, and address the dangers to Queensland road users and disruption to public amenity caused by hooning.

The Bill also contains consequential amendments to the *Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015.*

The objectives of the Bill are to:

- strengthen child protection laws by increasing the periods for which an offender is required to report under the CPOROPO Act;
- improve the ability of the QPS to investigate cybercrime and offences committed by reportable offenders by making certain offences against the Criminal Code and the CPOROPO Act relevant offences for controlled operations and surveillance device warrants in Schedule 2 of PPRA;
- enhance the capacity of the QPS to investigate organised crime by facilitating the use of civilian participants in controlled activities in certain limited circumstances; and
- strengthen laws to deter hooning behaviour by creating additional offences under the TORUM Act and the SOA and increasing the penalties that apply for an offence under s 211 TORUM-VR Regulation.

Achievement of policy objectives

Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

<u>Reportable offender reporting periods</u>

The *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (CPOROPO Act) is based on national model laws. These laws, with some local variances, operate across all states of Australia with information about reportable offenders, including their reporting periods, held on the National child protection register.

In 2014, Queensland reduced the reporting periods for reportable offenders from 8 years, 15 years and life based on the number and classes of offences committed, to 5 years, 10 years and life based on re-offending after a notice of reporting obligations had been given to a reportable offender. As a result, Queensland now has the shortest reporting periods in Australia.

The amendments in the Bill adjust the reporting periods for reportable offenders, other than a reportable offender who is a post *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA) reportable offender (post-DPSOA reportable offenders), to 10 years, 20 years and life. A Post-DPSOA reportable offender is currently subject to life reporting obligations and the Bill makes no change to their existing reporting obligations.

The additional reporting periods aim to ensure that offenders who commit sexual or other serious offences against children continue to be monitored by police to reduce the likelihood that they will reoffend.

The proposed changes are not retrospective. They will only apply to offenders who are convicted of a prescribed offence or have an offender reporting order made in relation to their offending, after the commencement of the amendments.

The way a reporting period is calculated will remain unchanged. That is:

- a 10 year reporting period will apply where the offender has never been given a notice of reporting obligations;
- 20 years will apply if the offender is convicted of a single prescribed offence after being given a notice of reporting obligations; and
- the reporting period will be life in circumstances where the offender is convicted of more than one prescribed offence after being given a notice of reporting obligations.

Reportable offenders who are children or were convicted of their offending as a child will be required to report for two and a half years if they are existing reportable offenders or have never been given a notice of reporting obligations, four years where they commit a further single offence after the commencement of the amendments and seven and a half years where they commit more than one single offence after being given a notice of reporting obligations. This is consistent with reporting for children in other Australian jurisdictions. Children who do not pose a risk to the lives or sexual safety of children may be suspended from their reporting obligations during the reporting period.

Other provisions related to suspension and appeal provisions under the CPOROPO Act will continue to apply to existing and new reportable offenders.

Police Powers and Responsibilities Act 2000

Amendment of schedule 2 (Relevant offences for controlled operations and surveillance device warrants) of the PPRA – cybercrime offences

Cybercrime is rapidly increasing and having a significant social and economic impact on the Queensland community. During 2020-21, the Australian Cyber Security Centre observed over 67,500 cybercrime reports, an increase of nearly 13% from the previous financial year, and self-reported losses from cybercrime totalling more than $33 billion.

The most reported cybercrime types were fraud, online shopping, and online banking scams. There was an increase in the severity and impact of reported cyber security incidents, with nearly half categorised as substantial. The offence of fraud accounted for 23% of cybercrime, identity theft was 7%, and 2% of offending is attributed to the sharing of images. A breakdown of cybercrime incidents by jurisdiction for the same financial year highlights that 30% occurred in Queensland, the highest incidence of all Australian jurisdictions.

Cybercrime offending is diverse. However, one of the primary ways it presents is through the sale of entire identities and identity documents through Darknet marketplaces. These marketplaces present a unique challenge for police. The offenders can hide behind the relative anonymity afforded by Tor (free and open-source software for enabling anonymous communication). Owing to these challenges, cybercrime has a lower risk of detection and prosecution.

The Australian Government's National Plan to Combat Cybercrime 2022, acknowledged that illicit transactions are facilitated by anonymising technologies and cryptocurrencies, requiring specialised cybercrime investigation capabilities. It is difficult for police to detect and investigate cyber offences using overt policing methods.

The Bill proposes to expand the list of relevant offences for controlled operations under schedule 2 to include sections 223 Distributing intimate images, 408C Fraud, 408D Obtaining or dealing with identification information, and 408E Computer hacking and misuse which will allow police to use controlled operations and surveillance devices as an investigation strategy to combat cybercrime offending and increase the likelihood of identifying an offender.

Amendment of schedule 2 (Relevant offences for controlled operations and surveillance device warrants) of the PPRA – CPOROPO Act offences

The enhance police monitoring and management of reportable offenders the Bill amends schedule 2 of the PPRA to include the following CPOROPO Act offences:

- section 50 'Failure to comply with reporting obligations';
- section 51 'False or misleading information'; and
- section 51A 'Failing to comply with prohibition.

These three offences are indictable and punishable by a maximum penalty of 300 penalty units or five years imprisonment.

The number of reportable offenders requiring monitoring and management by the QPS is increasing by approximately 150-200 each year. In addition, recent legislative amendments mean that post DPSOA offenders can become reportable offenders under the CPOROPO Act for life. While this group of reportable offenders currently numbers 27, 65% of the 220 offenders on DPSOA orders are expected to become reportable offenders in the coming years.

While reporting requirements under CPOROPO Act are stringent, some reportable offenders will manipulate the conditions making it hard for police to reliably know where the offender is residing. For example, the offender may be living in car or homeless, only providing police with a locality they can be found in. Some of these reportable offenders also present a high risk of reoffending confirmed by virtue of their status as a DPSOA offender or the issue of an Offender Prohibition Order against the reportable offender. The detection and investigation of these offences through conventional means is resource intensive. The capacity to use covert methodologies to investigate the specified offences committed by this high-risk cohort is considered justified, given the risk that such offenders pose to children.

Police receive information and intelligence about reportable offenders not complying with conditions or prohibitions. The ability for police to apply for a surveillance device warrant to a magistrate or judge when intelligence reveals an offender is not complying with their obligations will assist in community safety and in fulfilling the purposes of the CPOROPO Act.

The proposed insertion of CPOROPO Act offences into schedule 2 of the PPRA means the amendments will apply to all reportable offenders and maintains the current 'relevant offence'

threshold for the issue of a surveillance device warrant, where a Supreme Court judge or magistrate is satisfied there are reasonable grounds for the belief founding the application for the warrant.

The proposed amendments provide police with the ability to apply for a surveillance device warrant or a controlled operation when intelligence reveals an offender is not complying with their obligations, assisting in keeping the community safe and to provide for the protection of children.

Authorisation for a civilian to take part in a controlled activity (ancillary conduct only)

The existing controlled activity provisions in Chapter 10 of the PPRA, provide a legislative framework to authorise a police officer to engage in controlled activity. Controlled activity involves the police officer communicating with a person, deliberately concealing the purpose of that communication, or engaging in conduct that, but for the protections afforded by section 225 of the PPRA would be unlawful. For example, this could involve a covert police officer communicating with a drug dealer for the purpose of gathering evidence to support a prosecution for the offence of supplying or trafficking dangerous drugs.

A senior police officer must only authorise the activity –if having regard to the nature and extent of the relevant controlled activity offence, a controlled activity is appropriate in the circumstances. The authority must state the controlled activity that the police officer is authorised to engage in and the period of not more than seven days that the authority is in force.

Controlled activity authorisations provide police with an invaluable tool to infiltrate operations involved in the production and supply of dangerous drugs, and other organised criminal activity. However, given the maximum duration of a controlled activity is seven days it is often difficult for police to make inroads into these illegal operations without the assistance of a civilian participant.

Controlled operations pursuant to Chapter 11 of the PPRA – are directed at more protracted and involved investigations. All other Australian jurisdictions permit a civilian to participate in controlled operations including Queensland. None of these jurisdictions have controlled activity provisions. However, Victoria has a 'local minor controlled operation' in its *Crimes (Controlled Operations) Act 2004*. This is similar in nature to Queensland's controlled activity provisions in that it applies only within the Victorian jurisdiction and applies to offences on a lower scale than controlled operations thresholds. Additionally, the duration of a minor operation is seven days, which is the same as the maximum time for a controlled activity in Queensland. Victorian legislation permits a civilian to participate in a local minor controlled operation.

The Bill amends Chapter 10 of the PPRA to facilitate a civilian participant being involved in a limited way in controlled activity engaged in by a police officer. The involvement of a civilian in this context is limited by the Bill to conduct that is ancillary to the controlled activity of the police officer. That is, conspiring with, enabling, or aiding a police officer to engage in controlled activity.

This will ensure that where a police officer acting under a controlled activity authorisation is assisted by a civilian participant authorised to undertake the role, the civilian participant will be afforded protection from criminal liability to the extent that the individual was acting under that authorisation and in accordance with the instructions of the police officer.

Several safeguards will apply to the use of a civilian participant in a controlled activity. It will be authorised by a superintendent, be limited to ancillary conduct, and will only be available

in circumstances where the authorising officer – having regard to the nature and extent of the authorised controlled activity, believes that authorising the ancillary conduct is appropriate in the circumstances. These provisions are considered necessary to assist the QPS in the effective investigation of controlled activity offences.

Amendments to address 'hooning' behaviour

Despite the strong measures legislated by Queensland Governments, including vehicle impoundment and confiscation, hooning is a persistent problem in many areas. There is no single 'hooning' offence under Queensland law. The type of anti-social driving behaviours collectively recognised as hooning, are defined as type 1 vehicle related offences in Chapter 4 'Motor vehicle impounding and immobilising powers for prescribed offences and motorbike noise direction offences' of the PPRA. Type 1 vehicle related offences include any of the following offences committed in circumstances that involve a speed trial, a race between motor vehicles, or a burn out:

- an offence against the Criminal Code, section 328A 'Dangerous operation of a vehicle' committed on a road or in a public place;
- an offence against the TORUM Act, section 83 'Careless driving';
- an offence against the TORUM Act, section 85, 'Racing and speed trials on roads';
- an offence against the TORUM Act involving wilfully starting a motor vehicle, or driving a motor vehicle, in a way that makes unnecessary noise or smoke; and
- an evasion offence under section 754 of the PPRA.

If a person is caught committing a type 1 vehicle related offence, their vehicle may be impounded for 90 days. In 2021, 186 vehicles were impounded for 90 days. If a person is caught committing a subsequent type 1 vehicle related offence within five years of committing their first type 1 vehicle related offence their vehicle may be forfeited to the State.

Despite existing laws, hooning remains a problem with mass gatherings at night attracting hoons at locations such as industrial estates, shopping centre car parks, and other public car parks. At these places, individuals commit hoon offences encouraged by spectators. Organised groups record and promote this offending behaviour by uploading recordings and images on social media.

***Summary Offences Act 2005* (SOA) amendments**

Investigations of these offences are made difficult by offenders hooning in motor vehicles that cannot be readily identified through the removal or alteration of the vehicle's number plates, or by the attaching of number plates that are stolen or do not belong on the vehicle.

Additionally, individuals have been located by police at car gatherings in possession of vehicle registration plates that do not match any vehicles that are present. It is suspected these plates are to be later fixed to vehicles intended to be used to commit type 1 vehicle related offences. Fixing these plates to the cars is a measure undertaken by offenders to avoid identifying the vehicle used to commit offences.

This problem is not unique to Queensland. Anti-hooning laws giving police the power to impound, immobilise or confiscate vehicles were first introduced in Victoria in 2006. Despite having some of the toughest anti-hoon legislation in the country the Victoria Government has announced the establishment of a Hooning Community Reference Group after an increase in reckless driving behaviour during the coronavirus pandemic. Additionally, some local

governments in Victoria have established local by-laws, including fines for attendees at hooning events.

In New South Wales specific offences targeting hooning events include participating in any group activity involving one or more vehicles; organising, promoting or urging a person to participate in a hooning event; and photographing or filming hooning activity.

The Bill amends the SOA to create a new offence provision that prohibits a person from:

- willingly participating in a group activity involving a motor vehicle being used to commit a racing, speed trial, burn out or other hooning offence;
- organising, promoting or encouraging another person to participate in, or view, a group activity involving a motor vehicle being used to commit a hooning offence; or
- filming, photographing or publishing a film or photograph of a motor vehicle being used for a hooning offence for the purpose of organising, promoting or encouraging a group activity involving a motor vehicle being used to commit a hooning offence.

The third limb of this new offence will not capture a person who films hooning activity for the purpose of making a complaint to police or who films/photographs as part of a lawful event, for example, drag racing events that are held at Willowbank Raceway. The offence will be applicable to persons who photograph or film a motor vehicle being operated to commit a type 1 vehicle offence for the purpose of encouraging, organising or promoting the participation of persons in any such group activity.

The encouragement and complicity in hooning offences, is further deterred by the creation of a new offence which prohibits the possession of items for the purpose of committing a type 1 offence, for example number plates, spare wheels and hydraulic jacks.

These offence provisions will carry a maximum penalty of 40 penalty units or one year imprisonment.

***Transport Operations (Road Use Management) Act 1995* (TORUM Act) amendment**

Section 291 of the *Transport Operations (Road Use Management – Road Rules) Regulation 2009* (Road Rules) (‘Making unnecessary noise or smoke’) is the offence currently used to address people doing 'burn outs'. Two enforcement gaps have been identified in this existing offence provision. The existing offence provision does not capture:

- behaviour where someone intentionally engages in a sustained loss of traction in circumstances where noise and smoke are not generated (this usually occurs in the context of a substance being placed on the road to reduce friction); and
- circumstances where the conduct occurs in an area such as a public park which is not a road or road related area.

The Bill creates a new offence in the TORUM Act to address these gaps by prohibiting a person from wilfully operating a motor vehicle in a manner that causes the vehicle to undergo a sustained loss of traction. The offence will apply in a public place as well as on a road.

As the offence applies only to wilful conduct, it will not capture an accidental loss of traction. For example, the offence provision would not apply where the loss of traction occurs because of emergency braking or where a person accidentally loses traction because of the road conditions.

The Bill clarifies that the offence provision also does not apply in circumstances where a permit issued under a regulation authorises the person to drive a motor vehicle in a way that would otherwise contravene the section.

The Bill makes consequential amendments to the *Transport Operations (Road Use Management – Accreditation and Other Provisions) Regulation 2015*, to make it clear that the 'special circumstances permit' framework contemplates the new offence.

The Bill further amends the meaning of 'type 1 vehicle related offences' under section 69A(iv) of the PPRA to capture the new offence as a type 1 vehicle related offence.

***Transport Operations (Road Use Management – Vehicle Registration) Regulation 2021* (TORUM-VR Regulation) amendments**

A common tactic to avoid detection when committing hooning offences is to obscure or remove the number plates of the vehicle used to commit the offence. A common method used to avoid detection is to affix number plates that do not belong to the vehicle being used. Although, section 211 of the TORUM-VR Regulation comprehensively outlines the various ways number plates can be inappropriately used, this offence provision does not appropriately penalise offenders who commit this offence when hooning. Thus, the Bill increases the maximum penalty from 20 penalty units to 40 penalty units where the circumstance of aggravation of a type 1 vehicle offence is involved.

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 the existing budget of the QPS.

Consistency with fundamental legislative principles

Amendments in the Bill are generally compatible with fundamental legislative principles pursuant to the *Legislative Standards Act 1992* (LSA). Potential breaches of fundamental legislative principles are addressed below.

Amendments to the *Police Powers and Responsibilities Act 2000* (PPRA)

Section 4(2)(a) of the LSA - Authorise a civilian to participate in controlled activities

It is proposed to authorise a civilian to participate in a controlled activity. This may be perceived as a breach of the fundamental legislative principle that legislation have regard to the rights and liberties of individuals under section 4(2)(a) of the LSA. The proposal is intended to improve the effectiveness of controlled activities, which may result in the arrest and incarceration of those who commit serious offences, including the supply of dangerous drugs.

Controlled activities are used by police to obtain evidence of the commission of a relevant offence without the police officer themselves being liable for committing the offence. A controlled activity is smaller in scope than a controlled operation. For example, a controlled activity may target a small group of persons suppling or trafficking drugs within Queensland whereas a controlled operation may target an organised crime group throughout a number of Australian jurisdictions. The current process for applying to undertake controlled activities incorporates many safeguards including:

- a senior police officer of at least the rank of Inspector is required to authorise a controlled activity;
- the authority must be written and state the controlled activity the police officer is authorised to engage in;
- the authority may last no longer than seven days;
- the senior police officer may authorise a police officer to engage in a controlled activity only if, having regard to the nature or extent of the relevant controlled activity offence, authorising a controlled activity is appropriate in the particular circumstances; and
- a police officer authorised to engage in the controlled activity must comply with any relevant policy or procedure of the police service.

In facilitating the limited involvement of civilian participants, the Bill includes the following further safeguards to ensure the use of the civilian is warranted and to mitigate any potential breaches of fundamental legislative principles:

- the civilian will only be able to participate in ancillary conduct; that is, conduct that amounts to aiding or enabling a police officer to engage in the controlled activity, or, conspiring with a police officer for the police officer to engage in the controlled activity;
- a senior police officer of at least the rank of superintendent is required to authorise a civilian to engage in ancillary conduct for a controlled activity;
- a police officer considers it reasonably necessary for a civilian to participate in and be authorised to engage in ancillary conduct;
- the police officer may authorise the civilian participant to engage in the ancillary conduct only if, having regard to the nature and extent of the controlled activity to be authorised under section 224, authorising the ancillary conduct is appropriate in the particular circumstances; and
- the authority must be written and state(a) the controlled activity a police officer is authorised to engage in under section 224; and (b) details of the ancillary conduct for the controlled activity authorised under section 224 that the civilian participant is authorised to engage in; and (c) the period, of not more than 7 days, for which the authority is in force.

The amendments provide protection from liability for a person who chooses to assist police in engaging in controlled activity in the investigation of controlled activity offences.

Section 4(2)(a) of the LSA.- Addition of offences relating to reportable offenders in schedule 2

It is proposed to amend schedule 2 (Relevant offences for controlled operations and surveillance device warrants) of the PPRA by including the following CPOROPO Act offences: s 50 'Failure to comply with reporting obligations', s 51 'False or misleading information' and s 51A 'Failing to comply with prohibition order'. This may be seen as a breach of the fundamental legislative principle that legislation has regarding the rights and liberties of individuals under section 4(2)(a) of the LSA.

The focus of the QPS Child Protection Offender Registry is to prevent and disrupt recidivist offending against children. Whether police will be able to intervene at the earliest opportunity is dependent upon the ability for police to gather evidence that indicates a reportable offender is not compliant with reporting conditions, has provided false information about the details they are required to report, or is not complying with the conditions of an Offender Prohibition Order (OPO).

With climbing numbers of reportable offenders to manage, there is increasing pressure upon QPS resources to ensure the cohort are complying with their obligations and not endangering

the lives of children. Some reportable offenders do not provide a residential address but may be living in a car or a vessel and provide a locality to police where they reside, making it more difficult for police to detect and gather evidence against them when they are in breach of their obligations. The ability for police to act on intelligence or information that suggests an offender is committing an offence against sections 50, 51 or 51A of CPROPO Act, via application for a surveillance device warrant will assist in the successful detection and prosecution of these offenders.

There are numerous safeguards within chapter 13, 'Surveillance devices' of the PPRA. Furthermore, section 330 of the PPRA, 'Deciding Application', recognises the intrusive nature of a surveillance device warrant and requires a judge or magistrate to consider numerous factors before granting an application. Any potential breach of fundamental legislative principles is limited by the comprehensive safeguards in place to govern the approval of surveillance device warrants.

Include the offences of 'Computer hacking', 'Fraud', 'Dealing with identity information' and 'Distribution of intimate images' in schedule 2

The proposed amendment to include the offences in the controlled operations schedule may be seen as a breach of the fundamental legislative principle that legislation have regard to the rights and liberties of individuals under section 4(2)(a) of the LSA, as the powers may expose more persons to covert policing methods and result in their arrest and prosecution for cybercrime offences.

Controlled operations are used by police to obtain evidence of the commission of a relevant offence without the police officer themselves being liable for committing the offence. The general threshold of offence that can be investigated in Queensland as part of a controlled operation is higher than any other Australian jurisdiction. In all other Australian jurisdictions, the offences of 'Computer hacking', 'Fraud', 'Dealing with identity information' and 'Distribution of intimate images' would automatically meet pre-requisites for use in a controlled operation by virtue of them being indictable offences.

The current process for applying to undertake controlled operations is extensive. An application for a controlled operation must be progressed through the Committee under section 240 of the PPRA.

The Committee consists of an independent person, as required by legislation, who is a retired judge. Other members include the Detective Superintendent of the Drug and Serious Crime Group and the Chairperson of the Crime and Corruption Commission (CCC). At present, after the Committee's consideration and recommendation, the application may progress for final approval to the Assistant Commissioner, State Crime Command or a Deputy Commissioner who will then either authorise the operation (with or without conditions) or refuse the application.

On balance, any breach of fundamental legislative principles is justified when viewed against the significant economic and social costs of cybercrime offences upon victims in the Queensland community.

Amendments to the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (CPOROPO Act)

Section 4(2)(a) of the LSA - Extend the time a reportable offender is required to report

The proposed amendment to increase the length of reporting periods for a reportable offender from 5 years, 10 years and life to 10 years, 20 years and life may be held as a breach of the

fundamental legislative principle that legislation have regard to the rights and liberties of individuals under section 4(2)(a) of the LSA, as it will result in an increase in the time offenders are obligated to report under the CPOROPO Act.

However, given the inherent difficulties associated with the rehabilitation of child sex offenders and risk factors resulting from recidivism, lengthening the time an offender is monitored by requiring them to report under a child protection reporting regime, is considered justified.

Amendments to the *Summary Offences Act 2005*

Section 4(2)(a) of the LSA - New offences and circumstance of aggravation to target hooning or street-racing connected with the commission of type 1 vehicle related offences

The purpose of this proposal is to introduce new offences for: the willing participation in, and filming or photographing of hooning type 1 vehicle offences; and for possession of items connected to the commission of a type 1 vehicle offence. Furthermore, to include a circumstance of aggravation to the offence of attaching an altered number plate to a vehicle used to commit a type 1 related vehicle offence. Finally, to make it an offence for a person to operate a motor vehicle on a road in such a manner as to cause the vehicle to undergo sustained loss of traction by one or more of the driving wheels (or, in the case of a motorcycle, the driving wheel) of the vehicle. This may be perceived as a breach of the fundamental legislative principle that legislation have regard to the rights and liberties of individuals under section 4(2)(a) of the LSA.

Despite current legislative provisions intended to limit the impacts, reports about hooning activity indicate that acts of hooning remain prevalent. The QPS receives numerous complaints about hooning through a variety of means including via the telephone and online reporting.

Of particular concern are hoons gathering to commit offences. These gatherings take place in a variety of public locations including car parks and industrial estates. At these locations, individuals commit hoon offences encouraged by spectators. Organised groups record and promote this offending behaviour by uploading these recordings and images on social media.

Investigations of these offences are made difficult by offenders hooning in motor vehicles that cannot be readily identified through the removal or alteration of the vehicle's number plates, or by the attaching of number plates that do not belong on the vehicle including number plates that are lost or stolen.

Additionally, individuals have been located by police officers at car gatherings in possession of vehicle registration plates that do not match any vehicles that are present. It is suspected that these number plates will be affixed to vehicles used to commit type 1 vehicle related offences. Attaching the false, altered or stolen number plates to vehicles is solely to avoid the identification of the vehicle used to commit offences.

Chapter 4 'Motor vehicle impounding and immobilising powers for prescribed offence and motorbike noise direction offences' of the PPRA outlines the range of traffic offences that constitute hooning. Of particular relevance are type 1 vehicle related offences, as the commission of these offences compromises road safety and places all road users and the community at risk.

Legislative response to hooning behaviour includes imposing penalties such as fines or imprisonment and under chapter 4 of the PPRA authorising police officers to:

- impound motor vehicles used to commit specific offences;
- immobilise motor vehicle used to commit specific offences; or

- confiscate the number plates of motor vehicle used to commit specific offences.

Research conducted in Australia, the United States and Finland has largely confirmed that persons involved in street racing and hooning predominantly fall within the demographic of a young male aged between 16 and 25 years. It is unclear if these offenders are part of the mainstream car enthusiast culture or form a specific criminal subset or are a mixture of both groups.

Regardless of this, it is noted that there is not one all-encompassing theory that explains why people become involved in hooning. A person may participate in hooning for the perceived simple pleasure of driving a car quickly. Similarly, a person may participate in hooning because of a more complex motive for example to gain social status or to define one's self-concept. In such instances, the reinforcement of 'hooning' as a lifestyle can take place through the peer group and parental influences.

The proposed amendments will deter hooning behaviour by directly impacting on individuals who commit these offences and those persons who encourage, support or promote hooning behaviour.

These amendments will remove the encouragement and support for committing offences through denying the offender an audience to their offending behaviour. This will be achieved through amendments to the SOA and transport legislation:

The level of community concern caused by hooning justifies enhancing the vehicle impoundment scheme to reduce the incidence of hooning activity.

Consultation

No external consultation was undertaken during the development of the Bill.

Consistency with legislation of other jurisdictions

The CPOROPO Act is based on national model laws. These laws, with some local variances, operate across all states of Australia with information about reportable offenders, including their reporting periods, held on the National Child Protection Register.

In 2014, Queensland reduced the reporting periods for reportable offenders from 8 years, 15 years and life based on the number and classes of offences committed, to 5 years, 10 years and life based on re-offending after a notice of reporting obligations had been given to a reportable offender. As a result, Queensland now has the shortest reporting periods in Australia.

All other Australian jurisdictions permit a civilian to participate in controlled operations including Queensland. None of these jurisdictions have controlled activity provisions. However, Victoria has a 'local minor controlled operation' in its *Crimes (Controlled Operations) Act 2004*. This is similar in nature to Queensland's controlled activity provisions in that it applies only within the Victorian jurisdiction and applies to offences on a lower scale that controlled operations thresholds. Also, the duration of a minor operation is seven days, which is the same as the maximum time for a controlled activity in Queensland. Victorian legislation permits a civilian to participate in a local minor controlled operation.

Anti-hooning laws giving police the power to impound, immobilise or confiscate vehicles were first introduced in Victoria in 2006. Although it has some of the toughest anti-hoon legislation

in the country the Victoria Government has announced the establishment of a Hooning Community Reference Group after an increase in reckless driving behaviour during the coronavirus pandemic. Additionally, some local governments in Victoria have established local by-laws, including fines for attendees at hooning events.

In New South Wales specific offences targeting hooning events include participating in any group activity involving one or more vehicles; organising, promoting or urging a person to participate in a hooning event; and photographing or filming hooning activity.

Notes on provisions

Part 1 – Preliminary

1. Short title

Clause 1 states the short title of the Bill as the *Police Powers and Responsibilities and Other Legislation Amendment Act 2022*.

2. Commencement

Clause 2 states that Part 2, which amends the CPOROPO Act, commences on a day to be fixed by proclamation.

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

3. Act amended

Clause 3 states that Part 2 of the *Police Powers and Responsibilities and Other Legislation Amendment Act 2022* amends the CPOROPO Act.

4. Amendment of s 3 (Purposes of this Act)

Clause 4 removes the references to the commencement date of 1 January 2005 in subsection (2)(b). The commencement date is not necessary for the purpose of the Act. The removal does not affect the operation of this section.

5. Amendment of s 5 (Reportable offender defined)

Clause 5 amends section 5 of the CPOROPO Act by removing the limiter under subsection (1)(a) to reportable offenders who were sentenced after 1 January 2005. A reportable offender sentenced after 1 January 2005 will automatically fall within the definition of 'existing reportable offender' under section 6 of the CPOROPO Act.

Subsections (4) and (5) have been combined to streamline section 5. Clause 5 replaces subsections (6), (7) and (8) with a single subsection (6) and relocates the term 'single offence' in schedule 5 (Dictionary) of the CPOROPO Act.

There are no policy changes associated with the amendments to section 5.

6. Amendment of s 6 (Existing reportable offender defined)

Clause 6 amends section 6 by replacing the references to 'commencement date' with 1 January 2005. The amendment aligns with modern drafting practices and makes it clear that the reportable offender was serving a term of imprisonment or subject to a supervision order on 1 January 2005.

Clause 6 replaces the reference to section 19 of the *Criminal Law Amendment Act 1945*, with pre-2005 reporting order. The amendment aligns with modern drafting styles. A definition of 'pre-2005 reporting order' has been included schedule 5 (Dictionary).

7. Amendment of s 7 (Corresponding reportable offender defined)

Clause 7 removes the reference to 'recognised foreign reporting period' as it applies to the definition of corresponding reportable offender in section 7(b). The amendment aligns with modern drafting practices.

Due to the amendments to the reporting periods there is now a delineation between the offender and the offence committed. In this regard, a corresponding reportable offender is an offender who a person who falls within the ambit of legislation prescribed under a Regulation for an offence that is considered a corresponding reportable offence. New subsection (2) defines the parameters of corresponding reportable offence.

An amendment to subsection (1)(a) and (b) removes the requirement for a reportable offender to report for a longer period of time in a foreign jurisdiction before they can be required to report under the CPOROPO Act. This amendment allows the CPOROPO Act to capture reportable offenders in a foreign jurisdiction, who may be required to report for shorter periods in that jurisdiction than in Queensland.

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

Clause 8 amends section 7A(1)(a) by replacing the words 'the commencement date' with '1 January 2005'. The replacement provides greater clarity to the section and takes into account a new commencement date for the transitional provisions associated with the amendments.

Clause 8 also removes subsection (1)(c) which states a post-DPSOA reportable offender is not subject to reporting obligations when a division 3 order *Dangerous Prisoners (Sexual Offenders) Act 2003* ends. Under the CPOROPO Act, reporting obligations for a reportable offender are suspended while the offender is in custody or subject to a division 3 order. At the conclusion of these processes, the reporting obligations re-commence.

The amendment ensures that offenders who were subject to reporting obligations under the CPOROPO Act and in custody prior to the commencement of a division 3 order, are recognised as post-DPSOA reportable offenders when both the period of custody and the division 3 order end.

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

Clause 9 amends section 8 by relocating section 8(c)(ii) to new section 39D to allow all information regarding the reporting period for a forensic reportable offender to be located in one section. Section 8(d) refers to section 39D.

The amendment does not change the policy regarding the end of reporting obligations for a forensic reportable offender.

10. Amendment of s 9 (Reportable offence defined)

Clause 10 inserts the term 'existing reportable offence' in the heading of section 9 and defines that term in a new subsection (2). The term and definition determine who was considered a reportable offender prior to the commencement of the Amendment Act for the purposes of the increased reporting periods. Additionally, clause 10 inserts (d) into section 9 'a corresponding reportable offence' which has been included for completeness and applies to a corresponding reportable offence that was committed prior to the commencement of the PPRA and Other Leg Amendment Bill 2022.

11. Amendment of s 10 (Finding of guilt defined)

Clause 11 amends section 10 by replacing the references 'finding of guilt' with 'conviction'. The amendment does not change the effect of section 10 or its application across the CPOROPO Act.

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

Clause 12 relocates section 36(4) to section 11 subsection (1) to form a definition of 'single offence' for the purposes of determining whether offences arise out of the same incident.

This change does not affect how periods of reporting are calculated under the CPOROPO Act.

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

Section 13ZE

Clause 13 omits section 13ZE which prescribes the reporting status and period of reporting for an offender, who is not a current reportable offender, when an offender prohibition order is made. This information has been incorporated into sections 5(1) and 39E. The amendment aligns with modern drafting practices and does not affect the policy regarding the reporting provisions for offenders who are the subject of an offender prohibition order.

Section 13ZF

Clause 13 omits section 13ZF which prescribes the reporting status and reporting period for an offender who is the subject to a registered corresponding order. This information has been incorporated into sections 5(1) and 39F. The amendment aligns with modern drafting practices and does not affect the policy regarding the reporting provisions for offenders who are the subject of a registered corresponding order.

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

Clause 14 replaces part 4, division 5 which prescribes the reporting periods for reportable offenders. The replaced part separates part 4 into three subdivisions.

Subdivision 1 Preliminary

Clause 14 inserts subdivision 1 which replaces current section 35 (When reporting obligations begin). New section 35 sets out the purpose of the replaced part and provides an explanation of its operation in relation to the calculation of reporting periods for each category of reportable offender under the CPOROPO Act.

Subdivision 2 Reporting period in relation to reportable offence

Clause 14 inserts subdivision 2 which comprises of sections 36, 37, 38, 39, 39A, and 39B.

Section 36

Clause 14 replaces section 36 (Length of reporting period). This information has been relocated to sections 37, 38 and 39. New section 36 contains the information previously prescribed under section 35, that is, when reporting obligations begin for an offender who is the subject of an offender reporting order, a reportable offender who ceases to be in the custody, an offender who is a post-DPSOA reportable offender and an existing reportable offender. The amendments contained in section 36 are generally consistent with the current commencement provisions for these reportable offenders.

The inclusion of ‘supervision order’ under subsection (1)(c) is to make it clear when each reporting period commences. Similarly, the inclusion of ‘existing reportable offenders’ differentiates between those offenders who were convicted of a reportable offence, serving a period of imprisonment or subject to an order under section 19 of the *Criminal Law Amendment Act 1945* prior to 1 January 2005 with those who were convicted of a reportable offence after the commencement of the CPOROPO Act.

Section 37

Clause 14 replaces section 37 (Reduced period applies for child reportable offenders). Information about reporting periods for children has been relocated to section 39A.

Section 37 prescribes the reporting period for an existing reportable offence. An existing reportable offence is defined in section 9 of the CPOROPO Act and is an offence that was committed prior to the commencement of the Amendment Act, regardless of whether the offender was convicted before or after the commencement of the Amendment Act.

Accordingly, reporting periods for the current cohort of reportable offenders has not changed. They will continue to report for the period stated prior to the commencement of the Amendment Act unless they commit a further reportable offence after the commencement date. In this regard, they will be required to report for the period specified under proposed new sections 38 or 39.

This cohort will only be subject to the proposed increases in reporting periods for offences committed after the commencement of the Amendment Act. That is, if a reportable offender commits a reportable offence, they will be required to report for 20 years rather than the current 10 years.

Section 38

Clause 14 relocates the information in section 38 (Extended reporting if reportable offender still on parole) to section 39B. Section 38 now prescribes the reporting period for a reportable offence committed after the commencement of the Amendment Act. In this regard, an offender who commits a reportable offence and has never been given a notice of reporting obligations will be subject to a reporting period of 10 years.

A further single offence that is committed after the commencement of the Amendment Act and after an offender has been given a notice of reporting obligations will result in an increase in the reporting period from 10 years to 20 years.

The amendments only reflect a change in the reporting period. The manner in which the reporting period is calculated has not changed.

Section 39

Clause 14 replaces section 39 (Reporting period for corresponding reportable offenders). The information under section 39 has been relocated to section 39H. Section 39 now prescribes when a reportable offender will be required to report for the remainder of their life. In particular any offender who was convicted of an existing reportable offence and commits more than one reportable offence after the commencement of the Amendment Act, that offender will be required to report for the remainder of their life.

These changes do not negate the current suspension provisions under the CPOROPO Act that apply to life reportable offenders and reportable offenders who have significant physical, cognitive or mental health issues.

Section 39A

Clause 14 inserts a new section 39A (Reduced reporting period for child reportable offenders). Proposed section 39A comprises of the information contained in current section 37 as it applies to reportable offences committed by children.

A child who committed an existing reportable offence and had never been given a notice of reporting obligations will be required to comply with a reporting period of 2.5 years. This represents half of the period for an adult offender who committed an existing reportable offence prior to the commencement of the Amendment Act.

Where the child offender has been given a notice of reporting obligations before the commencement of the Amendment Act and then commits another single offence after the

commencement date, that child will be required to report for 4 years. Any further offending by existing child reportable offenders after the commencement of the Amendment Act will result in the child being required to report for a maximum of 7.5 years.

With the exception of the new four year reporting period, the amendments do not change how the current reporting period is calculated. The inclusion of a four year reporting period aligns with other Australian jurisdictions for child offenders.

Section 39B

Clause 14 inserts a new section 39B which prescribes a period of reporting for a reportable offender who is on parole. This information has been relocated from section 38 and remains consistent with the current policy. Minor changes have been made to comply with modern drafting practices.

Subdivision 3 Reporting periods that do not relate to reportable offence

Clause 14 inserts a new subdivision 3 which prescribes reporting periods for offences that are not prescribed under schedule 1 of the CPOROPO Act.

Section 39C

Clause 14 inserts section 39C which applies subdivision 3 despite any reporting periods provided in subdivision 2.

Section 39D

Clause 14 inserts a new section 39D which prescribes the reporting period for offenders who are subject to a forensic order under the *Mental Health Act 2016*, have committed an offence against a child, other than an offence under schedule 1 of the CPOROPO Act, and the court has determined it appropriate to make an offender reporting order because of the risk the offenders pose to the lives or sexual safety of children. The reporting period for this cohort continues until the expiry of the forensic order.

The information in section 39D has been relocated from Part 3 of the CPOROPO Act. There are no changes to the reporting periods or obligations as a consequence of the amendments.

Section 39E

Clause 14 inserts a new section 39E which prescribes that an offender subject to an offender prohibition order under Part 3A of the CPOROPO Act, must comply with the obligations on the offender during the reporting period. That is the period set out in section 13G of the CPOROPO Act. The reporting period in relation to an offender prohibition order has not changed.

Section 39F

Clause 14 inserts a new section 39F which prescribes the reporting periods for an offender who is the subject of a registered corresponding order. A registered corresponding order is defined in the CPOROPO Act, as an *order in a jurisdiction other than Queensland, including a jurisdiction outside Australia, that closely corresponds to an offender prohibition order*.

Accordingly, the reporting periods for a corresponding order are either the period of the corresponding order or 5 years for an adult and 2 years for a child, whichever is the shorter. This is consistent with the reporting periods set out in Part 3 and section 13G of the CPOROPO Act.

A registered corresponding order takes effect on the day the order is registered in Queensland.

Section 39G

Clause 14 inserts a new section 39G which prescribes the reporting periods for an offender who has ever been convicted of a reportable offence and has been the subject of a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*. The reporting period for this cohort of offender is the remainder of their life. This is consistent with the current provisions under the CPOROPO Act.

Section 39H

Clause 14 inserts section 39H which prescribes the reporting periods for a corresponding reportable offender in circumstances where the period is longer than the period set out in subdivision 2. The corresponding reportable offender must comply with the longer period.

Proposed section 39H comprises of the information contained in current section 39. Minor changes have been made to reflect the changes in the reporting periods for Queensland offenders.

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

Clause 15 amends section 41 by including a minimum period before an application for a suspension of reporting obligations can be made to the Supreme Court. The minimum period will remain at 15 years where a reportable offender was required to report for the reminder of their life prior to the commencement of the Amendment Act and 25 years where the life reporting began after the commencement date.

16. Amendment of various provision

Clause 16 amends various provisions in the CPOROPO Act by replacing the terms ‘finding of guilt’, ‘found guilty’ and ‘finds the person guilty’ with ‘conviction’, ‘convicted’ and ‘convicts a person’ respectively.

The change supports amendments to section 10 of the CPOROPO Act which replaces the definition of ‘finding of guilt’ with ‘conviction’. The amendments provide a consistent approach across the CPOROPO Act. There are no changes to the operation of these sections as a consequence of the amendments.

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

Clause 17 amends schedule 3 by replacing the reference to section 39 with 39H in column 1 as it applies to a corresponding reportable offender. The amendment does not change the current policy regarding when a corresponding reportable offender must make an initial report.

18. Amendment of sch 5 (Dictionary)

Clause 15 inserts definitions for new terms into schedule 5 as a consequence of the Amendment Act.

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

19. Act amended

Clause 19 states that Part 3 amends the *Police Powers and Responsibilities Act 2000.*

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

Clause 20 amends section 69A of the PPRA to make new section 85A of the TORUM Act a type 1 vehicle related offence.

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

Clause 21 omits section 221(2) of the PPRA for the purposes of replacing it with a new section 221A.

22 Insertion of new s 221A

Clause 22 inserts a new section 221A which contains the definitions for chapter 10. Section 221A includes the definition of a controlled activity offence from previous section 221(2) and also includes a number of new definitions that are relevant to the use of civilian participants in a controlled activity.

The clause inserts the following new definitions: *ancillary conduct, authorised controlled activity, civilian participant*.

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

Clause 23 amends section 223 to provide for the lawfulness of a civilian participants involvement in a controlled activity.

Subsection 223(c) makes it lawful for a police officer of at least the rank of Superintendent – when acting in accordance with the policies and procedures established by the Commissioner of Police – to authorise a civilian participant to engage in ancillary conduct in relation to an authorised controlled activity.

Subsection 223(d) makes it lawful for a civilian participant acting under a controlled activity authorisation issued pursuant to section 224A to engage in ancillary conduct for the controlled activity.

24. Amendment of s 224 (Authorised controlled activities)

Clause 24 amends subsection 224(2) by inserting the word *procedure.* This minor technical amendment is made for the purpose of ensuring consistency with the language used in section 223.

Clause 24 amends section 224 by omitting subsection (6). This omission is necessary as the definition of *conduct* is now included in the new section 221A.

25. Insertion of new s 224A

Clause 25 inserts a new section 224A, the purpose of which, is to facilitate the authorisation of ancillary conduct by a civilian participant as part of a controlled activity. This section applies if a police officer considers it is reasonably necessary for a civilian participant to engage in ancillary conduct for an authorised controlled activity. A police officer of at least the rank of superintendent may, in accordance with any policy or procedure authorise the civilian participant to engage in ancillary conduct for the authorised controlled activity. The authorising senior police officer must have regard to the nature and extent of controlled activity, and that authorising the ancillary conduct is appropriate in the circumstances.

The authority must be written and state the authorised controlled activity, the details of the ancillary conduct for the authorised controlled activity that the civilian participant is authorised to engage in. The authority is limited to a period of not more than seven days.

26. Amendment of s 225 (Protection from liability)

Existing section 225 provides police officer authorising and engaging in controlled activity with certain protections from liability. Given that the role and conduct performed by civilian participants is materially different, it is not appropriate or necessary to extend the existing protections provided to police officers to civilian participants in their entirety. Consequently, clause 26 of the Bill amends the heading of section 225, to clarify that section 225 applies to police officers only.

Clause 26 further amends section 225(1) to ensure that the protections currently applying to police officers who authorise controlled activities will also apply in circumstances where the police officer is authorising a civilian participant to engage in ancillary conduct.

27. Insertion of new s 225A

Clause 27 of the Bill inserts new section 225A which provides a civilian participant with liability protection in circumstances where they are or have engaged in ancillary conduct. The civilian participant will not be liable criminally or civilly for conduct that they honestly believe was authorised under section 224A and in circumstances where a police officer has given them a lawful instruction and they act in accordance with the instruction.

With respect to civil liability, where the protections in section 225A(2) prevent liability from attaching to the civilian participant, liability will attach to the state.

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

Clause 28 amends section 226 to provide that evidence is not inadmissible only because it was obtained by a controlled activity or ancillary conduct.

29. Amendment of s 810 (Renumbering of Act)

Clause 29 is a minor technical amendment that clarifies when section 801 and Schedule 4 of the Act expire.

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

Clause 30 includes additional offences for the purposes of schedule 2. The addition of offences to this schedule makes them 'relevant offences' for the purposes of controlled operations and surveillance device warrants.

Subclause (1) adds three offences against the CPOROPO to schedule 2 of the PPRA. The offences added are: section 50 Failure to comply with reporting obligations, section 67FA Failing to comply with prohibition order and section 67FD False or misleading information.

Subclause (2) includes additional offences pursuant to the Criminal Code in schedule 2 of the Act. The additional offences are: section 223 Distributing intimate images, section 408C Fraud, section 408D Obtaining or dealing with identification information and section 408E Computer hacking and misuse.

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

Clause 31 makes a minor technical amendment that is consequential to clause 29.

32. Amendment of sch 6 (Dictionary)

Clause 32 amends sch 6 (Dictionary). Subclause (1) omits the definition for *caution* and *civilian participant*. The omission of the definition for *caution* is a minor amendment to reflect the fact that – where the word is used in the Act in the manner it is defined in schedule 6 – its meaning is inherent in the provision. Subclause (1) also omits *civilian participant* as this definition is amended in subclause (2) to reflect the different definitions in Chapter 10 and 11 of the Act.

Subclause (2) amends schedule 6 to reflect the terms defined in the new section 221A. It also defines *public transport infrastructure* which is an amendment that is consequential to amendments made in the *Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022*.

Subclause (3) amends the definition of *conduct* in schedule 6 to reflect the meaning of that word in new s 221A.

Subclause (4) renumbers the definition for *conduct* in schedule 6 to reflect the amendments made by subclause (3).

Part 4 - Amendment of *Summary Offences Act 2005*

33. Act amended

Clause 33 states that Part 4 amends the *Summary Offences Act 2005*.

34. Insertion of new pt 2, div 4A

Clause 34 inserts a new part 2, division 4A (Offences associated with hooning offences).

19A Object of division

New section 19A states that the object of the new division is to discourage the commission of racing, speed trial, burn out and other hooning offences by prohibiting conduct that promotes or encourages the commission of these offences and possession of things which have, are or could be used to commit those offences.

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

New section 19B provides that a *racing, burn out or other hooning offence* means a type 1 vehicle related offence under s 69A(1) of the PPRA.

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

New section 19C creates an offence for unlawful conduct associated with the commission of a racing, burn out or other hooning offence. The offence provision applies in circumstances where a person: willingly participates in a group activity involving a motor vehicle being used to commit a racing, burn out or other hooning offence; or organises, promotes or encourages another person to participate in, or view, a group activity involving a motor vehicle being used to commit a racing, burn out or other hooning offence; or for the purpose of organising, promoting or encouraging another person to participate in, or view, a group activity involving a motor vehicle, photographs or films, or publishes a photograph or film of, a motor vehicle being used to commit a racing, burn out or other hooning offence.

A maximum penalty of 40 penalty units or 1 year's imprisonment applies for this offence.

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

New section 19D makes it an offence to possess a thing – other than a motor vehicle – that is being, is to be or has been used to commit a racing, burn out or other hooning offence.

A maximum penalty of 40 penalty units or 1 year's imprisonment applies with respect to this offence.

35. Amendment of sch 2 (Dictionary)

Clause 35 amends sch 2 of the dictionary to insert a definition for *racing, burn out or other hooning offence* that refers to the meaning given to those words in new section 19B.

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

36. Act amended

Clause 6 states that part 5 amends the *Transport Operations (Road Use Management) Act 1995.*

37 Insertion of new s 85A

Clause 37 inserts a new section 85A.

85A Wilfully causing motor vehicle to lose traction with road

New section 85A makes it an offence for a person to wilfully drive a motor vehicle on a road or in a public place in a way that causes a sustained loss of traction of 1 or more of the wheels of the motor vehicle with the road or other surface. The maximum penalty for this offence is 20 penalty units.

Subsection (2) provides that a person does not commit the offence in circumstances where a permit issued under a regulation authorises a person to drive a motor vehicle in a way that would otherwise be unlawful because of the operation of section 85A and the person drives the motor vehicle in a way permitted under the permit and any conditions that attach to the permit.

Subsection (3) provides an exemption from the offence for authorised officers who are performing a function or exercising a power under the Act.

Part 6 - Amendment of *Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015*

38 Regulation amended

Clause 38 states that this part amends the *Transport Operations (Road Use Management – Accreditation and Other Provisions) Regulation 2015.*

39 Amendment of s 124 (Definitions for pt 5)

Clause 39 amends the definition of *special circumstances permit* in section 124 (Definitions for part 5) of the Regulation. The purpose of this amendment is to ensure that the special circumstances permit definition contemplates the approval of conduct that would breach section 85A, including any conduct that takes place in a public place that is not a road.

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

Clause 40 amends section 128 to provide that an application for a permit may relate to using a motor vehicle in a way that contravenes section 85A(1) of the *Transport Operations (Road Use Management) Act 1995.* Additionally clause 40 inserts subsection (5A) in regards to applications mentioned in subsection (2), a reference in this section to a road is taken to include a public place.

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

Clause 41 amends section 129(2) to insert a note referring to section 85A(2) of the TORUM Act.

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

42. Regulation amended

Clause 42 states that this part amends the *Transport Operations (Road Use Management – Vehicle Registration) Regulation 2021*

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

Clause 43 amends section 211 to increase the maximum penalty to 40 penalty units in circumstances where a vehicle is used in the commission of a type 1 vehicle related offence.

Subclause (2) defines a type 1 vehicle related offence with reference to section 69A(1) of the *Police Powers and Responsibilities Act 2000.*