Note

In order to give effect to the Cross-border Justice Act 2009, this law must be applied with the modifications mentioned in section 13 of the Cross-border Justice Act 2009 as if this law had been altered in that way.

For modifications of this law prescribed by regulation, see Part 3, Division 11 of the Cross-border Justice Regulations 2009.

NORTHERN TERRITORY OF AUSTRALIA

POLICE ADMINISTRATION ACT 1978

As in force at 7 December 2023

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 7 December 2023

POLICE ADMINISTRATION ACT 1978

An Act relating to the police force

Part I Preliminary matters

1 Short title

This Act may be cited as the *Police Administration Act 1978*.

2 Commencement

This Act shall come into operation on the date of commencement of the *Summary Offences Act 1978*.

3 Repeal and savings

(1) Notwithstanding the repeal of Part II of the *Police and Police Offences Ordinance 1923* effected by section 4 of the *Summary Offences Act 1978* a person who was a member of the Police Force under Part II of the *Police and Police Offences Ordinance 1923* immediately before the commencement of this Act continues to be a member of the Police Force under this Act with the same rank and seniority and, subject to this Act, upon the same terms and conditions which applied to the member immediately before the commencement of this Act.

(2) Notwithstanding the repeal of Part IV of the *Police and Police Offences Ordinance 1923* effected by section 4 of the *Summary Offences Act 1978* all warrants issued and all arrests and other actions taken by a member pursuant to Part IV of the *Police and Police Offences Ordinance 1923* shall continue to have force and effect as if issued or taken under Part VII of this Act.

4 Interpretation

(1) In this Act:

Aboriginal Community Police officer means a person appointed as an Aboriginal Community Police officer under section 19.

affected member, for Part VII, Division 7AA, see section 147FA(1).

aircraft, for Part VII, see section 116(2).

ammunition, for Part VII, see section 116(2).

Appeal Board includes a Promotions Appeal Board, a Disciplinary Appeal Board and an Inability Appeal Board.

approved member, for Part VII, Division 1C, see section 116K.

Assistant Commissioner means an Assistant Commissioner of Police appointed under section 8.

at, for Part VII, see section 116(2).

child, for Part VII, Division 7AA, see section 147FA(1).

Commissioner means the Commissioner of Police appointed under section 7.

corresponding jurisdiction means any of the following in which a forensic law is in force:

(a) the Commonwealth, a State or another Territory;

(b) a foreign country prescribed by the Regulations.

court, for Part VII, Division 7AA, see section 147FA(1).

dangerous drug, see section 120A.

Deputy Commissioner means a Deputy Commissioner of Police appointed under section 7.

disease test approval, for Part VII, Division 7AA, see section 147FA(1).

disease test authorisation, for Part VII, Division 7AA, see section 147FA(1).

disease test order, for Part VII, Division 7AA, see section 147FA(1).

dismiss, in Parts IV, V and VI, in relation to a member, means to terminate the employment of the member because of a breach of discipline.

explosive, for Part VII, see section 116(2).

firearm, see section 3(1) of the *Firearms Act 1997*.

forensic law means a law providing for the carrying out of a forensic procedure.

forensic procedure means an intimate procedure or non-intimate procedure.

forensic procedure approval means an approval to carry out a forensic procedure given by:

(a) a Local Court Judge under section 145(4);

(b) a Local Court Judge under section 30 or 31 of the *Youth Justice Act 2005*; or

(c) a member of the Police Force under:

(i) section 145A(1); or

(ii) section 31(2)(b) of the *Youth Justice Act 2005*.

general orders means general orders and instructions, as in force from time to time, issued under section 14A.

grounds for disease testing, for Part VII, Division 7AA, see section 147FB(5).

hand held scanner, for Part VII, Division 1C, see section 116K.

hand held scanner authority, for Part VII, Division 1C, see section 116KB(5).

health practitioner means a person registered under the Health Practitioner Regulation National Law to practise in a health profession, other than as:

(a) a diagnostic radiographer in the diagnostic radiographer division of the medical radiation practice profession; or

(b) a student.

high risk area, for Part VII, Division 1C, see section 116K.

incapable person, for Part VII, Division 7AA, see section 147FA(1).

infectious disease, for Part VII, Division 7AA, see section 147FA(1).

infringement notice offence, for Part VII, Division 4AA, see section 133AA.

intimate procedure includes the following procedures:

(a) examining the body, either internally or externally;

(b) taking from the body a substance on or in the body;

(c) taking a sample of a substance on or in the body;

(d) taking a sample of blood (other than by a swab or washing from an external part of the body);

(e) taking a sample of pubic hair;

(f) taking a sample from the external genital or anal area or the buttocks by swab or washing;

(g) taking a sample from the external genital or anal area or the buttocks by vacuum suction, scraping or lifting by tape;

(h) taking a dental impression or an impression of a bite mark;

(j) taking a photograph, or an impression or cast, of a wound to the genital or anal area or the buttocks;

(k) taking an X ray;

(m) taking a sample of urine;

(n) in the case of a female:

(i) examining the breasts;

(ii) taking a sample from the breasts by swab or washing;

(iii) taking a sample from the breasts by vacuum suction, scraping or lifting by tape; and

(iv) taking a photograph, or an impression or cast, of a wound to the breast.

intoxicated, for Part VII, Division 4, see section 127A.

member means a member of the Police Force.

merit, for appointment or promotion to a rank in the Police Force, see section 15A.

non-intimate procedure includes the following procedures:

(a) taking a sample of saliva or a sample by buccal swab;

(b) examining a part of the body other than the genital or anal area or the buttocks or, in the case of a female, the breasts;

(c) taking a sample of hair other than pubic hair;

(d) taking a sample by swab or washing from any external part of the body other than the genital or anal area or the buttocks or, in the case of a female, the breasts;

(e) taking a sample by vacuum suction, scraping or lifting by tape from any external part of the body other than the genital or anal area or the buttocks or, in the case of a female, the breasts;

(f) taking a hand print, fingerprint, footprint or toe print;

(g) taking a photograph of, or an impression or cast of a wound to, a part of the body other than the genital or anal area or the buttocks or, in the case of a female, the breasts;

(h) taking a photograph of a person.

nurse, for Part VII, Division 7AA, see section 147FA(1).

offence, for Part VII, see section 116(2).

place, for Part VII, see section 116(2).

Police Association means the Northern Territory Police Association.

Police auxiliary means a person appointed as a Police auxiliary under section 19.

Police Cadet means a Police Cadet appointed under section 18.

Police Civil Employment Unit means the Agency of that name specified in Schedule 1 to the *Public Sector Employment and Management Act 1993*.

police dog means a dog used by the Police Force in the performance of the functions of the Police Force.

Police Force means the Police Force of the Northern Territory of Australia established by this Act.

Police Gazette means a document published under section 165(1).

police horse means a horse used by the Police Force in the performance of the functions of the Police Force.

precursor, see section 3(1) of the *Misuse of Drugs Act 1990*.

premises, for Part VII, see section 116(2).

prescribed member means a member holding the prescribed rank.

Professional Standards Command means the Ethical and Professional Standards Command of the Police Force established by section 34G.

Professional Standards Command member means a member assigned to the Professional Standards Command.

proper authority, of a corresponding jurisdiction, means:

(a) the person performing functions in relation to the police force or service of the corresponding jurisdiction that correspond to the functions of the Commissioner; or

(b) an entity prescribed by the Regulations.

protected person, for Part VII, Division 7AA, see section 147FA(1).

public place, for Part VII, Division 1C, see section 116K.

public transport facility, for Part VII, Division 1C, see section 116KA.

public transport vehicle, for Part VII, Division 1C, see section 116K.

qualified person, for Part VII, Division 7AA, see section 147FA(1).

responsible Minister, of a corresponding jurisdiction, means the Minister responsible for administering a forensic law of the jurisdiction.

responsible person, for Part VII, Division 7AA, see section 147FA(2).

restricted weapon, for Part VII, see section 116(2).

retire, in Parts IV, V and VI, in relation to a member, means to terminate the employment of the member otherwise than by dismissing the member.

senior member, for Part VII, Division 7AA, see section 147FA(1).

ship, for Part VII, see section 116(2).

Special Constable means a Special Constable appointed under Division 4 of Part II.

substance, for Part VII, Division 7AA, see section 147FA(1).

suspected offence area, for Part VII, Division 1C, see section 116KB(1).

third party, for a transferor, means:

(a) a responsible person for the transferor on whom an application for a disease test order is served under section 147FI; or

(b) another responsible person for the transferor appointed third party under section 147FJ(1)(d).

transfer of a substance, for Part VII, Division 7AA, see section 147FA(1).

transferor, for Part VII, Division 7AA, see section 147FA(1).

Tribunal means the Police Arbitral Tribunal formerly constituted under the *Police and Police Offences Ordinance* and continued under Part III of this Act.

use, for Part VII, Division 1C, see section 116K.

vehicle, for Part VII, see section 116(2).

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

(2) A reference in this Act to ***this Act*** includes a reference to the Regulations.

(3) Except in Part VII, a reference in this Act to a ***member*** includes a reference to a member of the Police Force who is on probation under section 16A and has not yet taken an oath mentioned in section 26.

4A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against section 134, 134A, 134B, 147FG, 147FO, 147FV, 155 or 157A.

Note for section 4A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part II Police Force of the Northern Territory

Division 1 Establishment of Police Force

5 Northern Territory Police Force

(1) There is established by this Act the Police Force of the Northern Territory.

(2) The core functions of the Police Force are:

(a) to uphold the law and maintain social order; and

(b) to protect life and property; and

(c) to prevent, detect, investigate and prosecute offences; and

(d) to manage road safety education and enforcement measures; and

(e) to manage the provision of services in emergencies.

6 Constitution of Police Force

The Police Force shall consist of a Commissioner and other members appointed and holding office under and in accordance with this Act.

Division 2 Commissioner, Deputy and Assistant Commissioners

7 Commissioner of Police and Deputy Commissioner of Police

The Administrator may, by commission, appoint a person to be Commissioner of Police or a Deputy Commissioner of Police.

8 Assistant Commissioner of Police

(1) The Minister may appoint a person to be an Assistant Commissioner of Police.

(2) The Administrator may issue his or her commission to a person appointed under subsection (1).

9 Remuneration

(1) Subject to the provisions contained in an Act (including this Act), the Commissioner, a Deputy Commissioner or an Assistant Commissioner appointed under this Part:

(a) shall be paid such remuneration and allowances; and

(b) shall hold office on such terms and conditions,

as the Administrator, from time to time, determines.

(2) The Commissioner, a Deputy Commissioner or an Assistant Commissioner appointed under this Part shall not be an employee for the purposes of the *Public Sector Employment and Management Act 1993*.

(3) Subject to subsection (3A), in determining the matters specified in subsection (1) the Administrator shall ensure that the remuneration and allowances and terms and conditions of the Commissioner, a Deputy Commissioner or an Assistant Commissioner shall be not less than those of other members of the Police Force.

(3A) The Administrator may determine that the Commissioner, a Deputy Commissioner or an Assistant Commissioner is to hold office for a fixed period.

(4) Where the Commissioner, a Deputy Commissioner or an Assistant Commissioner ceases to hold office other than by reason of his death or resignation or his retirement under section 10, he shall be paid compensation to be determined by the Administrator.

10 Retirement

(1) The Commissioner, a Deputy Commissioner or an Assistant Commissioner, who has attained the age of 55 years may retire from the Police Force.

(3) Notwithstanding any other provision of this Act, the Commissioner, a Deputy Commissioner or an Assistant Commissioner may retire from the Police Force where he satisfies the Administrator that by reason of illness or other incapacity he is unable to discharge the

duties of his position.

(4) A retirement under subsection (3) is not effective until it is accepted by the Administrator.

11 Resignation

(1) The Commissioner, a Deputy Commissioner or an Assistant Commissioner may resign his office by writing signed by him and delivered to the Administrator.

(2) A notice of resignation under subsection (1) shall not have effect until it is accepted by the Administrator.

12 Acting appointments

(1) The Minister may appoint a member to act from time to time as the Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, during the absence from the Territory or from duty of the Commissioner, Deputy Commissioner or Assistant Commissioner or a vacancy in any of those offices.

(2) Subject to this section, a person appointed under subsection (1) during a vacancy shall not continue in office after the expiration of 12 months after the occurrence of the vacancy.

(3) Where a person is appointed to act as the Commissioner, a Deputy Commissioner or an Assistant Commissioner in pursuance of an appointment under subsection (1):

(a) a reference in a law of the Territory to the Commissioner, a Deputy Commissioner or an Assistant Commissioner, as the case may be, includes a reference to the person so appointed to act; and

(b) that person has all the powers, functions and duties conferred or imposed upon the Commissioner, a Deputy Commissioner or an Assistant Commissioner, as the case may be, by any law of the Territory.

(4) Where a person is, under subsection (1), appointed to act in a position and that position becomes vacant while the person is so acting, the person may continue to act in that position until:

(a) the Minister otherwise directs;

(b) the position ceases to be vacant;

(c) the person resigns his appointment made under subsection (1); or

(d) a period of 12 months from the date on which the vacancy occurred expires,

whichever first occurs.

(5) A person may resign an appointment under subsection (1) by writing signed by him and delivered to the Minister.

(6) A notice of resignation under subsection (5) shall not have effect until it is accepted by the Minister.

(7) The validity of anything done by a person acting as Commissioner, Deputy Commissioner or Assistant Commissioner in pursuance of an appointment under subsection (1) shall not be called in question by reason of any defect or irregularity in or in connection with his appointment or on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

13 Interim vacancies

(1) Where there is an interval between the inability of the Commissioner, a Deputy Commissioner or an Assistant Commissioner to carry out the duties of his office and an appointment by the Minister under section 12(1), the powers and functions of the office to which the inability relates may be exercised by the member next senior to the member who held the office in respect of which the inability arose.

(2) An action taken by a member in accordance with subsection (1) shall be deemed to be the action of the member appointed under section 12.

14 Control and management of Police Force

(1) Subject to this Act, the Commissioner shall be charged and invested with the general control and management of the Police Force and may, in addition to those powers, exercise any powers conferred on a Superintendent or other officer of the Police Force.

(2) The Commissioner shall exercise and perform all the powers and functions of his office in accordance with the directions in writing, if any, given to him by the Minister.

(3) Subject to section 116KB(4), the Commissioner may, in writing, delegate to a person the Commissioner's powers or functions under this Act.

(4) In addition, the Commissioner may, in writing, delegate to a member, or an employee within the meaning of the *Public Sector Employment and Management Act 1993*, the Commissioner's powers or functions under another Act.

(5) Subsection (4) applies to the Commissioner's powers or functions as Commissioner or Chief Executive Officer, within the meaning of the *Public Sector Employment and Management Act 1993*, of the Police Force.

(6) However, subsection (4) does not apply if the Commissioner has a power of delegation under the other Act.

(7) In addition, the Commissioner may delegate a power or function under subsection (3) or (4) to a person only if satisfied the person has the appropriate qualifications or experience to exercise the power or perform the function.

14A General orders

(1) The Commissioner may, from time to time, in writing, issue such general orders and instructions as are necessary:

(a) to secure the good government and efficient working of the Police Force;

(c) to arrange and provide protection and other assistance to persons under the Territory witness protection program established under the *Witness Protection (Northern Territory) Act 2002*.

(2) Without limiting subsection (1), general orders may include a code of conduct to be observed in the Police Force.

14B Commissioner may transfer members

The Commissioner may, as the Commissioner thinks fit, after giving a member written notice, transfer the member:

(a) from the position held by the member in the Police Force to another position in the Police Force; and/or

(b) from the locality in the Territory where the member is stationed to another locality in the Territory.

14C Disciplinary procedures

The Commissioner may, for the purposes of the general control and management of the Police Force, issue instructions relating to the counselling and cautioning of members (including the issuing of

written cautions to members) who commit breaches of discipline that are of such minor nature as not to warrant action being taken under Part IV.

Division 3 Appointment, resignation and dismissal of members

15 Commissioner may determine establishment of Police Force

Subject to this Act, the Commissioner may determine the number of members and ranks of the Police Force and the number of members who, at one time, may hold each of the ranks in the Police Force.

15A Merit for appointment or promotion

A person has merit for an appointment or promotion to a rank in the Police Force if the person has the capacity to perform the duties of the rank, having regard to:

(a) the person's:

(i) knowledge, skills, qualifications and experience; and

(ii) aptitude, diligence, good conduct and quality of service; and

(iii) potential for future development in the Police Force; and

(b) any other matters the Commissioner reasonably considers relevant.

15B Eligibility for appointment to Police Force

(1) The Commissioner may determine the criteria for eligibility of a person for appointment to the Police Force.

(2) A person is eligible for appointment to the Police Force if the person satisfies the criteria.

(3) A determination under subsection (1) must be published in the *Police Gazette* as soon as practicable after it is made.

16 Commissioner may appoint or promote members

(1) Subject to this Act, the Commissioner may do any of the following:

(a) appoint a person eligible for appointment to the Police Force to be a member with the rank of Constable;

(ab) appoint a person who previously retired from the Police Force under section 22, and who is eligible for appointment to the Police Force, to be a member with a rank that is not above the rank last held by the person before their retirement;

(ac) in the circumstances mentioned in section 17, appoint a person who was previously a member, other than a member who retired under section 22, and who is eligible for appointment to the Police Force, to be a member with a rank that is above the rank of Constable;

(b) promote a member, being a member who is qualified for promotion, to the rank next above the rank which that member held on the day immediately preceding the day on which the promotion was made.

(2) An appointment or promotion by the Commissioner under subsection (1) shall not be made so as to appoint a person or promote a member to the rank of Commissioner, Deputy Commissioner or Assistant Commissioner.

(3) The Commissioner may promote a qualified member to a relevant rank if the Commissioner is satisfied there is no other member holding a rank next below the relevant rank:

(a) who is qualified for promotion to the relevant rank; and

(b) who has superior merit for the promotion.

(4) In subsection (3):

qualified member means a member who is qualified for promotion to a relevant rank.

relevant rank, in relation to a qualified member, means a rank that is 2 ranks above the rank the member holds on the day immediately preceding the day of promotion to the relevant rank.

16A Members on probation

(1) This section applies to a person appointed to be a member of the Police Force under:

(a) section 16(1)(a); or

(b) section 16(1)(ab); or

(ba) section 16(1)(ac); or

(c) section 19.

(2) The person is on probation from the day on which the person commences duties in accordance with the person's appointment to the day on which the person's appointment is confirmed or terminated under this section.

(3) Subject to subsection (4A), the person's initial probation period is:

(a) if appointed under section 16(1)(a) – 2 years; or

(b) if appointed under section 16(1)(ab) or (ac) – 6 months; or

(c) if appointed under section 19 – 1 year.

(4) The Commissioner may direct that the person's initial probation period be a shorter period than it would otherwise be under subsection (3) if satisfied that the shorter period is appropriate having regard to the person's qualifications and experience.

(4A) If the Commissioner gives a direction under subsection (4), the person's initial probation period is the period specified in the direction.

(5) As soon as practicable after the end of the person's initial probation period or a further period specified under paragraph (c), the Commissioner must:

(a) confirm the appointment; or

(b) terminate the appointment; or

(c) direct that the person continue on probation for a further specified period not exceeding 6 months.

(5A) The person's probation may be extended under subsection (5)(c) more than once.

(6) The Commissioner may terminate the person's appointment at any time during the person's probation if the Commissioner is of the opinion that the person:

(a) has committed a breach of discipline mentioned in section 76; or

(b) is unlikely to become an efficient member of the Police Force; or

(c) should not be a member of the Police Force, based on information about the person's integrity or character not considered by the Commissioner at the time of the person's appointment.

Note for section 16A

A member of the Police Force who is on probation and has not yet taken an oath mentioned in section 26 must not exercise powers under Part VII or any other law of the Territory.

16AA Issue of commission

The Administrator may issue the Administrator's commission to a member appointed or promoted under section 16 by the Commissioner to the rank of Superintendent or a rank above that rank, whether the appointment or promotion was made before or after the commencement of this section.

16AAA Term or contract employment

(1) The Commissioner may, from time to time, determine the duties or classes of duties in the Police Force of a member of or above the rank of Commander that:

(a) may be performed on an appointment for a fixed period; or

(b) may only be performed on an appointment for a fixed period.

(2) Duties referred to in subsection (1) may, subject to the relevant determination under that subsection, be performed either by the appointment under section 16 of a person on contract or by the promotion or transfer of a member for a fixed term.

(3) In making a determination under subsection (1), the Commissioner shall specify a period, not exceeding 5 years, as the period for which a person may be employed to perform the duties.

(4) The Commissioner may determine the terms and conditions to apply to and in relation to employment to perform duties referred to in subsection (1), and where such a term or condition is inconsistent with this Act, the term or condition so determined prevails and the conditions of or under this Act, to the extent of the inconsistency, have no effect.

(5) The period of employment to perform duties referred to in subsection (1) may be renewed from time to time by the Commissioner for a period not exceeding the duration of the original period.

(6) Where duties referred to in subsection (1) are performed by a member promoted or transferred as referred to in subsection (2), the terms and conditions to which the member is subject as a permanent member at his rank shall be deemed to be varied, to the extent of the determination under subsection (4), for the duration of the period during which the member performs those duties.

17 Circumstances in which person may be appointed at rank above Constable

A person may be appointed to a position under section 16(1)(ac) if:

(a) the Commissioner sought applications from members for transfer to the position and either:

(i) no applications were received; or

(ii) no member was found suitable for transfer to the position by the Commissioner; and

(b) the Commissioner sought applications from members for promotion to the position and either:

(i) no applications were received; or

(ii) no member was found to have merit for promotion to the position by the Commissioner; and

(c) the position is at a rank that:

(i) is prescribed by regulation for this section; and

(ii) is not above the rank held by the person when the person last served as a member.

17A Allowance for member having special qualifications

(1) Subject to this section, the Commissioner may, where he is of the opinion that a member has special skills and qualifications:

(a) suitable for use in the Police Force; and

(b) which are being used by the member in the performance of his duties as a member,

but that the remuneration and allowances applicable to the rank held by that member do not adequately compensate that member for those special skills and qualifications, determine, subject to such terms and conditions as he thinks fit, that that member shall be paid, on and from the date specified in the determination, in

addition to that remuneration and those allowances, an allowance, not exceeding the prescribed amount, sufficient, in the opinion of the Commissioner, to adequately compensate that member for those special skills and qualifications, and that member shall, accordingly, be paid the allowance.

(2) Without limiting the generality of the Commissioner's power under subsection (1), the terms and conditions referred to in that subsection may specify that the allowance payable in pursuance of a determination under that subsection to a member shall cease to be paid to him where:

(a) his special skills and qualifications which gave rise to the determination are no longer being used by him in the performance of his duties as a member; or

(b) he is promoted within the Police Force.

(3) Where a member the subject of a determination under subsection (1) is, after the determination is made, promoted within the Police Force and the Commissioner has not made that determination subject to the condition specified in subsection (2)(b), the Commissioner shall review that determination and, after that review, having regard to:

(a) whether the special skills and qualifications of the member which gave rise to that determination are still being used by him in the duties carried out by him as a member with the rank held by him after his promotion; and

(b) the difference between the remuneration and allowances applicable to the rank held by him immediately before his promotion and the remuneration and allowances from time to time applicable to the rank held by him after his promotion,

may:

(c) vary the allowance payable in pursuance of that determination; or

(d) revoke that determination,

with effect on and from that promotion.

18 Police Cadets

(1) The Commissioner may, from time to time, appoint such persons as he considers necessary to be members of the Police Force with the rank of Police Cadet and, notwithstanding anything contained in this Act, dismiss, discharge or suspend from duty for such period as he

considers desirable, a Police Cadet.

(2) A member who is a Police Cadet shall not be required to take the oath under section 26 in relation to the exercise of his powers as a Police Cadet.

(3) Subject to subsection (4), a power conferred by this Act, or any other law in force in the Territory, on a member of the Police Force by virtue of his being such a member shall not be exercised by a member who is a Police Cadet.

(4) Where a member of the Police Force who is a Police Cadet is appointed to be a Special Constable under this Part the member may, during the period of that appointment, exercise the powers of a member of the Police Force as provided by this Act and the terms and conditions of his appointment.

(5) An appointment of a person to be a member of the Police Force with the rank, on appointment, of Constable shall not be made if there is a Police Cadet who is qualified for promotion to that rank.

19 Aboriginal Community Police and auxiliaries

(1) The Commissioner may, in writing, appoint a person who is eligible for appointment to the Police Force to be a member of the Police Force as an Aboriginal Community Police officer or Police auxiliary.

(3) Subject to the terms and conditions specified in the person's instrument of appointment, an Aboriginal Community Police officer or Police auxiliary has the same powers, privileges, duties and obligations as other members of the Police Force.

20 Resignation

(1) A member of the Police Force other than the Commissioner, a Deputy Commissioner or an Assistant Commissioner shall not resign his office or relinquish the duties of his office unless:

(a) he is authorised in writing by the Commissioner to do so;

(b) he has given to the Commissioner 14 days notice of his intention to do so; or

(c) his resignation is for the purpose of becoming a candidate for election as a member of a House of the Parliament of Australia or of a State, of the Legislative Assembly of the Northern Territory or of a prescribed legislative or advisory body of another Territory and:

(i) he has, before resigning, given to the Commissioner notice in writing of his intention to resign for that purpose; and

(ii) he resigns on a date not earlier than 14 days before the date on which nominations for the election close.

(2) A member shall not resign his office or relinquish the duties of his office otherwise than in accordance with subsection (1).

Maximum penalty: 4 penalty units or imprisonment for 3 months or both.

21 Reappointment of person who resigned to contest elections

(1) Where the Commissioner is satisfied that a person who was a member of the Police Force:

(a) resigned from the Police Force for the purpose specified in section 20(1)(c) and after having given the notice required by that section;

(b) was a candidate for election to a House of the Parliament or to another assembly or body referred to in that paragraph; and

(c) failed to be elected,

the Commissioner shall, upon application by that person within 2 months after the declaration of the result of the election but subject to subsection (6), reappoint the person to a position in the Police Force having a salary, or range of salary, applicable to the position occupied by the member before the date of his resignation.

(2) A person shall be reappointed under this section without being required to undergo any medical examination and whether or not he possesses the appropriate educational qualifications or meets the appropriate requirements.

(3) A person shall be reappointed under this section without probation.

(4) A person reappointed under this section shall be deemed to have continued in the Police Force as if he had not resigned but had been on leave of absence without pay during the period from the day on which his resignation became effective to and including the day immediately preceding the day on which he was reappointed.

(5) The period referred to in subsection (4) shall, for all purposes, be deemed to form part of the member's period of service in the Police Force.

(6) This section does not authorise the reappointment of a person who has attained the age of 67 years.

22 Retirement

(1) A member who has attained the age of 55 years may retire from the Police Force.

(2) A member who attains the age of 67 years ceases to be a member of the Police Force.

25 Function of members

Subject to this Act, a member shall perform the duties and obligations and have the powers and privileges as are, by any law in force in the Territory, conferred or imposed on him.

26 Members to take oath

(1) A person shall not exercise or perform any of the powers, functions or duties conferred or imposed upon a member of the Police Force by a law of the Territory unless he or she has taken and subscribed an oath in the form in the Schedule.

(2) An oath under subsection (1) must be administered by the Commissioner, a Deputy Commissioner or an Assistant Commissioner.

27 Oath binding on members

A person on taking and subscribing the oath as provided in section 26, or on probation under section 16A, shall be bound by the terms and conditions of his employment as a member of the Police Force, as provided by this Act, until such time as he ceases to be a member of the Police Force.

28 Members to serve the Crown

(1) Subject to subsections (2) and (3), every person, on taking and subscribing the oath as provided in section 26, shall be deemed to have thereby entered into a written agreement with, and shall be thereby bound to serve the Crown as a member of the Police Force or in any other capacity if so instructed in accordance with this Act or the regulations, at the current rate of pay, until lawfully discharged.

(2) No agreement of the type referred to in subsection (1) shall be set aside for want of reciprocity.

(3) An agreement of the type referred to in subsection (1) may be cancelled at any time by the lawful discharge, dismissal or removal from office of any such person, or by the resignation of any such person being accepted by the Administrator or the Commissioner, as the case may be.

Division 4 Appointment and duties of Special Constables generally

29 Appointment of police of other jurisdictions as Special Constables

(1) The Commissioner may at any time appoint or authorise the appointment, as a Special Constable, of a person who is a member of the police force (however described):

(a) of the Commonwealth; or

(b) of a State; or

(c) of another Territory.

(2) The appointment may be:

(a) on the terms and conditions the Commissioner considers appropriate; and

(b) of persons identified by reference to:

(i) a particular work location; or

(ii) a particular operational unit or work group; or

(iii) any other identifiable designation.

(3) A Special Constable appointed under this section is taken to be a member of the Police Force and has the duties, obligations, powers and privileges imposed or conferred on a member under any law in force in the Territory.

30 Appointment of other persons as Special Constables

(1) The Commissioner may at any time appoint or authorise the appointment, as a Special Constable, of a person to whom section 29 does not apply.

(2) The appointment may be on the terms and conditions the Commissioner considers appropriate.

(3) A Special Constable appointed under this section is taken to be a member of the Police Force and has the duties, obligations, powers and privileges specified in the instrument of appointment.

31 Revocation of appointment

The Commissioner may at any time revoke the appointment of a Special Constable.

32 Special Constable to take oath

(1) Before a Special Constable begins to discharge the duties of office, the Special Constable must take and subscribe an oath in accordance with the form in the Schedule.

(2) The oath must be administered by a person authorised by the Commissioner to administer it.

(3) The oath may be taken outside the Territory.

(4) If the oath is taken outside the Territory, the person administering it must send to the Commissioner within 14 days after it is taken or made:

(a) a copy of the oath; and

(b) a written statement, signed by the person, stating the person's name and authority to administer the oath.

(5) A failure to comply with subsection (4) does not invalidate the appointment of a Special Constable.

33 Evidence of appointment

The Commissioner must issue to each Special Constable evidence of appointment which is, for all purposes, evidence of the appointment and authority of the Special Constable to whom it is issued.

34 Neglect of duty

A Special Constable must not neglect or refuse to obey any lawful order given to the Special Constable in connection with the performance of the duties of office.

Maximum penalty: 4 penalty units or imprisonment for 3 months.

Division 5 Special Constables and urgent cross-border assistance

34A Definitions

In this Division:

declaration means a declaration made under section 34B.

period of operation, of a declaration, means the period during which the declaration is in force (including any periods of extension under section 34C).

34B Declaration of incident requiring urgent cross-border assistance

(1) The Commissioner may, orally or in writing, declare that an incident requires urgent cross-border assistance.

(2) The declaration must specify the period it will be in force, which must not exceed 14 days inclusive of the day it is made.

(3) In deciding whether to make a declaration, the Commissioner must have regard to the following matters:

(a) the nature, urgency and seriousness of the incident;

(b) the adequacy of the resources and capabilities of the Police Force to deal with the incident without the assistance of other jurisdictions;

(c) the expertise and assistance that could be expected to be provided by other jurisdictions.

(4) The Commissioner must, as soon as practicable (but within 14 days) after making a declaration, forward to the Minister:

(a) if the declaration is in writing – a copy of the declaration; or

(b) if the declaration was made orally – written confirmation of its making.

(5) A failure to comply with subsection (4) does not invalidate the declaration.

34C Extension of declaration

(1) During the period a declaration is in force, the Commissioner may extend the operation of the declaration.

(2) Section 34B applies to the extension of a declaration in the same way as it applies to the making of the declaration.

(3) The Commissioner may extend a declaration in accordance with this section as many times as necessary.

34D Appointment of Special Constables

(1) During the period of operation of a declaration, Special Constables may be appointed under section 29 orally or in writing.

(2) If Special Constables are appointed during the period of operation of a declaration, the Commissioner must, as soon as practicable after the end of that period:

(a) forward written confirmation of the appointments to the Minister, specifying, in relation to each Special Constable:

(i) the person's name; and

(ii) the police force to which the person is permanently appointed and the rank held in that police force; and

(b) forward written confirmation to each Special Constable of the person's appointment, specifying the period of appointment.

(3) Subsection (2) applies whether a Special Constable is appointed individually or by reference to a work location, operational unit, work group or other designation.

(4) A failure to comply with subsection (2) does not invalidate the appointment of a Special Constable.

34E Oath

(1) Despite section 32, it is not necessary for a Special Constable appointed during the period of operation of a declaration to take an oath before the Special Constable begins to discharge the duties of office.

(2) However, a Special Constable appointed during that period must take and subscribe an oath in accordance with section 32 as soon as practicable after appointment.

34F Termination of appointment

Unless the appointment is revoked earlier under section 31, a Special Constable appointed during the period of operation of a declaration ceases to be a Special Constable at the end of that period.

Division 6 Ethical and Professional Standards Command

34G Establishment of Ethical and Professional Standards Command

The Ethical and Professional Standards Command of the Police Force is established.

34H Functions

The Professional Standards Command has the following functions:

(a) to ensure the highest ethical and professional standards are maintained in the Police Force;

(b) to investigate and otherwise deal with complaints about conduct of members under Part 7 of the *Ombudsman Act 2009*;

(c) to perform functions as directed by the Commissioner to be performed, including functions relating to the discipline of members;

(d) to perform other functions conferred on it under this or another Act.

34J Composition of Professional Standards Command

(1) The Professional Standards Command consists of the following:

(a) members assigned to the command by the Commissioner;

(b) public sector employees employed in the Police Civil Employment Unit and assigned to the command.

(2) The officer in charge of the Professional Standards Command must be a member of or above the rank of Commander.

34K Professional Standards Command members not subject to direction

In exercising a power or performing a function for Part 7 of the *Ombudsman Act 2009*, a Professional Standards Command member is subject only to the direction of:

(a) for the officer in charge of the Professional Standards Command – the Commissioner; and

(b) for a Professional Standards Command member other than the officer in charge – the Commissioner or another Professional Standards Command member.

34L Professional Standards Command members may be directed to perform other functions

(1) The Commissioner may direct a Professional Standards Command member to perform functions not related to the functions of the Professional Standards Command.

(2) However, the Commissioner must not issue the direction unless the Commissioner is satisfied performance of the functions is not likely to unreasonably interfere with the operations of the Professional Standards Command.

(3) In addition, the Commissioner must not direct a Professional Standards Command member to investigate an offence alleged to have been committed by a Professional Standards Command member other than in exceptional circumstances.

34M Others may be directed to exercise powers and perform functions for Professional Standards Command

(1) The Commissioner may direct a member who is not a Professional Standards Command member, or a public sector employee, to exercise powers and perform functions for Part 7 of the *Ombudsman Act 2009*.

(2) The member or employee is taken to be a Professional Standards Command member for that purpose.

Part III Conditions of service of members of Police Force

Division 1 Police Arbitral Tribunal

35A Definitions

In this Part, unless the contrary intention appears:

Chairperson means the person appointed under section 36(2)(a).

conciliator means a person appointed under section 40D(1).

Minister's nominee means the person appointed under section 36(2)(b).

Police Association's nominee means the person appointed under section 36(2)(c).

35 Establishment of Tribunal

There shall be a Police Arbitral Tribunal which shall have jurisdiction to hear and determine all matters relating to the remuneration and terms and conditions of service of members of the Police Force other than the Commissioner, a Deputy Commissioner, an Assistant Commissioner or a member of the rank of Commander.

36 Constitution of Tribunal

(1) The Tribunal is constituted by:

(a) the Chairperson;

(b) the Minister's nominee; and

(c) the Police Association's nominee.

(2) The Minister may, by notice in the *Gazette*, appoint:

(a) a person to be the Chairperson;

(b) a person to be the Minister's nominee; and

(c) a person to be the Police Association's nominee.

(3) The Minister must not appoint a person to be the Chairperson unless the person:

(a) is a member of the Australian Industrial Relations Commission established by the *Workplace Relations Act 1996* of the Commonwealth whose appointment to the Tribunal has been agreed to by the President of the Commission; or

(b) is a person who, in the opinion of the Minister, has suitable qualifications and experience to be appointed Chairperson.

36A Deputy members

(1) The Minister may, by notice in the *Gazette*, appoint:

(a) a person to be the deputy of the Chairperson;

(b) a person to be the deputy of the Minister's nominee; and

(c) a person to be the deputy of the Police Association's nominee.

(2) The Minister must not appoint a person to be the deputy of the Chairperson unless the person:

(a) is a member of the Australian Industrial Relations Commission established by the *Workplace Relations Act 1996* of the Commonwealth whose appointment as the deputy of the Chairperson has been agreed to by the President of the Commission; or

(b) is a person who, in the opinion of the Minister, has suitable qualifications and experience to be appointed as the deputy of the Chairperson.

(3) A person who is appointed under subsection (1) to be the deputy of the holder of an office is to act in that office while the holder of the office is absent or unable to act as a member of the Tribunal for any reason.

36B Commissioner and Association to recommend certain members of Tribunal

(1) The Minister may only appoint a person to be the Minister's nominee or the deputy of the Minister's nominee if the person is not a member of the Police Force.

(2) If there is a vacancy in the office of:

(a) the Minister's nominee or the deputy of the Minister's nominee – the Minister must give notice in writing to the Commissioner and the Commissioner for Public Employment requesting them to recommend in writing a person to the office within 30 days after the notice is given; or

(b) the Police Association's nominee or the deputy of the Police Association's nominee – the Minister must give notice in writing to the Police Association requesting the Association to recommend in writing a person to the office within 30 days after the notice is given.

(3) The Minister may only appoint a person to be the Minister's nominee or the deputy of the Minister's nominee after:

(a) the Minister has received a recommendation in writing from the Commissioner and the Commissioner for Public Employment; or

(b) 30 days after notice is given by the Minister under subsection (2)(a).

(4) The Minister may only appoint a person to be the Police Association's nominee or the deputy of the Police Association's nominee if the person is recommended for appointment in a notice to the Minister given by the Police Association.

(5) Subsection (4) does not apply if the Police Association has not recommended a person in writing within 30 days after notice is given by the Minister under subsection (2)(b) to be the Police Association's nominee or the deputy of the Police Association's nominee.

37 Duration of appointment

(1) Subject to subsection (3), a person appointed under section 36 or 36A holds office for the term of not more than 3 years that is specified in his or her notice of appointment.

(2) A person appointed under section 36 or 36A is eligible for reappointment.

(3) A person appointed under section 36 or 36A ceases to be a member of the Tribunal or a deputy of a member of the Tribunal:

(a) if the Minister receives a written notice of resignation, signed by the person;

(b) if the Minister appoints another person under that section in the place of that person; or

(c) if the person dies.

37A Members and deputy members to take oath

(1) A member of the Tribunal or a deputy of a member of the Tribunal must, before first exercising his or her powers or performing his or her functions under this Act, take the oath set out in Form 3 in the Schedule.

(2) An oath under subsection (1) must be administered by a justice of the peace.

38 Procedures

(1) A matter before the Tribunal is to be resolved by a decision of the majority of the members of the Tribunal.

(2) Subject to this Act, the procedures to be adopted at the hearings of the Tribunal shall be determined by the Tribunal.

39 Secretary to the Tribunal

There shall be a secretary to the Tribunal who shall be appointed by the Minister.

40 Meetings may be requested

(1) The Secretary must, at the written request of the Commissioner or the Police Association, call a meeting of the Chairperson, the Commissioner and the Police Association about matters relating to the remuneration or terms and conditions of service of members of the Police Force, or both.

(2) The Secretary must call a meeting under subsection (1) within 14 days after receiving the request or, if it is not practicable to do so within 14 days, as soon as practicable after receiving the request.

40A Attempts at conciliation to be made

(1) At a meeting called under section 40(1), the Chairperson must:

(a) require the Commissioner and the Police Association, or their representatives, to attempt to conciliate the matters at issue between the parties; and

(b) for that purpose – appoint a person from the panel appointed under section 40D to be a conciliator in relation to the matters.

(2) The Chairperson may only appoint a conciliator under subsection (1)(b) after taking into account submissions made by the Commissioner and the Police Association as to the matters at issue between the parties to which the request under section 40 relates.

(3) Despite subsection (1), the Chairperson may decide that a matter is to be determined by the Tribunal without requiring the Commissioner and the Police Association to attempt to conciliate the matter if the Chairperson is satisfied that the attempt is unlikely to be successful.

(4) If the Chairperson decides that the matter is to be determined by the Tribunal, the Tribunal must conduct a hearing and make a decision in relation to the matter.

40B Conciliation

(1) A conciliator must do everything that appears to him or her to be right and proper to assist the parties to reach agreement in relation to the matters at issue between the parties.

(2) The action that may be taken by a conciliator under subsection (1) includes any of the following:

(a) arranging conferences by the parties or their representatives presided over by the conciliator;

(b) arranging for the parties or their representatives to confer amongst themselves at conferences that the conciliator does not attend;

(c) facilitating agreement between the parties as to matters referred to conciliation;

(d) mediation;

(e) advising the Tribunal that the parties have requested the Tribunal to make a determination or to vary or revoke a determination of the Tribunal;

(f) concluding the matter by both parties agreeing not to continue with the matter.

(3) The procedures to be adopted in relation to conciliation of a matter are to be as determined by the conciliator.

(4) A conciliator must not, except with the agreement of the Commissioner and the Police Association, disclose anything said or done for the purposes of conciliating a matter under this Part.

(5) A conciliator is not personally liable for any action taken, or not taken, in good faith for the purposes of conciliating a matter under this Part.

(6) If an agreement under this section is inconsistent with a determination of the Tribunal, the determination prevails to the extent of the inconsistency.

40C Referral of matters to Tribunal

(1) The Commissioner and the Police Association may together request the Tribunal to conduct a hearing and make a decision in relation to all or any aspects of a matter to which a request under section 40(1) relates.

(2) If a request is received under subsection (1) and the Chairperson is satisfied that the parties have made a genuine attempt to agree about those aspects of the matter in the course of conciliation under this Part, the Tribunal must conduct a hearing and make a decision in relation to those aspects of the matter about which agreement has not been reached.

(3) A conciliator must notify the Tribunal as to the results of conciliation between the parties within 14 days after conciliation has concluded.

(4) If a conciliator notifies the Tribunal that the parties have agreed to request a decision of the Tribunal as to whether to make a determination or to vary or revoke a determination of the Tribunal, the Tribunal must conduct a hearing and decide the matter.

40D Panel of conciliators

(1) The Minister may appoint a suitably qualified and experienced person, who is not a member of the Tribunal, a deputy of a member of the Tribunal or a member of the Police Force, to be a member of a panel of conciliators.

(2) The Minister may only appoint a person under subsection (1) after taking into account submissions made by the Commissioner and the Police Association as to the persons suitable to be members of the panel of conciliators.

42 Gazettal of determinations

(1) A determination made by the Tribunal in pursuance of this Division shall be notified in the *Gazette* by a notice stating that such determination has been made and specifying the place where copies of the determination can be purchased or obtained.

(2) A determination shall, except to the extent to which it is expressed to come into operation on an earlier or later date, come into operation on the date of its notification in the *Gazette*.

(3) When the Tribunal makes a determination under this Part, it shall forthwith send a copy of the determination to the Minister.

(4) The Minister shall, on the first sitting day of the Legislative Assembly after he receives a copy of the determination forwarded to him pursuant to subsection (3), cause that copy to be laid before the Assembly.

43 Determination binding on all parties

(1) Any determination made by the Tribunal in pursuance of this Act shall be binding on the Crown, the Commissioner and the members of the Police Force to whom it is expressed to relate.

(2) A person shall not:

(a) fail or omit to abide by any determination; or

(b) do, or procure any person to do, anything in contravention of the provisions of a determination.

Maximum penalty: 4 penalty units or imprisonment for 3 months or both.

44 Interpretation of determination

(1) Notwithstanding anything contained in this Act, the Tribunal may, on its own motion or on the submission of any person or organisation interested in any determination, give an interpretation of any term of an existing determination, and the provisions of this Act shall apply to any such interpretation in like manner as they apply to a determination.

(2) Before giving any such interpretation on its own motion, the Tribunal shall hear argument on behalf of any person or organisation who or which is interested in the determination and is desirous of being heard.

45 Witnesses

(1) For the purposes of this Part, the Tribunal may, by writing, summon any person to attend the Tribunal at a time and place named in the summons to give evidence or produce any books, documents or writings in his custody or control which the Tribunal deems relevant to any proceedings before it and which the person is required by the summons to produce.

(2) The Tribunal may, in its discretion, on the application of a party to proceedings before it, by writing, summon any person to appear as a witness before the Tribunal.

46 Evidence on oath

The Tribunal may require a person appearing as a witness before the Tribunal to give evidence on oath.

47 Failure to answer summons

A person served with a summons under section 45 shall not fail without reasonable excuse to attend the Tribunal, or to produce any documents, books or writings in his custody or control, which he was required by the summons to produce.

Maximum penalty: 4 penalty units or imprisonment for 3 months or both.

48 Offences by witnesses

(1) A person appearing as a witness before the Tribunal must not refuse to take an oath when required by the Tribunal to do so or to answer any question relevant to the proceedings before the Tribunal which is put to him by the Tribunal.

Maximum penalty: 4 penalty units or imprisonment for 3 months or both.

(2) Nothing in subsection (1) shall be construed as compelling a person to answer any question which would tend to incriminate him.

49 Perjury

A witness before the Tribunal shall not knowingly give false testimony touching any matter material to any proceedings before the Tribunal.

Maximum penalty: 17 penalty units or imprisonment for 12 months or both.

50 Protection of members of Tribunal

(1) The Chairperson is not personally liable for an action taken, or not taken, in good faith in administering this Part.

(2) A member of the Tribunal or a deputy of a member of the Tribunal is not personally liable for any action taken, or not taken, in good faith by the Tribunal in administering this Part.

50A Appeals to Supreme Court

The Commissioner or the Police Association may, with the leave of the Supreme Court, appeal to the Supreme Court against a determination made under Part III, Division 1, but only on a question of law.

Division 2 Consent agreements

51 Parties to consent agreement

The Minister and the Police Association may, from time to time, enter into consent agreements relating to the remuneration and terms and conditions of service of members of the Police Force, other than the Commissioner, a Deputy Commissioner, an Assistant Commissioner or a member of the rank of Commander.

52 Consent agreements to be in writing

Every consent agreement made in pursuance of section 51 shall be in writing and, subject to this Part, shall remain in force for such period, not exceeding 5 years, as is specified in the agreement.

53 Certification of consent agreements by Tribunal

(1) No consent agreement made in pursuance of section 51 shall have effect until it has been certified by the Tribunal and filed under subsection (3).

(2) The Tribunal shall certify a consent agreement unless it is of the opinion that it is not in the public interest that it should be certified.

(3) An agreement referred to in subsection (1) and certified under subsection (2) shall be filed with the secretary to the Tribunal and shall be of full force and effect according to its terms.

(4) Upon certifying a consent agreement under subsection (2), the Tribunal shall transmit a copy of the certified consent agreement to the Minister.

(5) The Minister shall, on the first sitting day of the Legislative Assembly after he receives a copy of the certified consent agreement, cause that copy to be laid before the Assembly.

54 Consent agreement binding on all parties

(1) Every consent agreement shall during its continuance be binding on the Crown, the Commissioner and the members of the Police Force to whom it is expressed to relate.

(2) A person shall not:

(a) fail or omit to abide by a term of a consent agreement; or

(b) do, or procure any person to do, anything in wilful contravention of the provisions of a consent agreement.

Maximum penalty: 4 penalty units or imprisonment for 3 months or both.

55 Consent agreement to be notified in the *Gazette*

Any agreement made in pursuance of section 51 shall be notified in the *Gazette* by a notice stating that the agreement has been made and specifying the place where copies of the agreement can be purchased or obtained.

56 Duration of consent agreement

In default of any express provision to the contrary therein contained, an agreement shall, unless rescinded, and subject to any variation, continue in force after the expiration of the term specified therein, until the expiration of one month after either party thereto has given written notice to the secretary to the Tribunal and to the other party of his desire to determine it.

57 Effect of consent agreement of the Tribunal

A consent agreement, once certified and filed, shall have effect as a determination of the Tribunal.

Part IV Discipline

Division 1 Duties and obligations of members

76 Breaches of discipline

A member commits a breach of discipline if the member:

(a) engages in disgraceful or improper conduct, either on or off duty; or

(b) is negligent, inefficient or careless in the discharge of the member's duties; or

(c) contravenes or fails to comply with a provision of a Code of Conduct referred to in section 14A(2); or

(d) fails to obey a lawful direction, instruction or order given by, or caused to be issued by, the Commissioner or a member or person having authority over the member, including general orders and instructions issued under section 14A(1) and directions, instructions or orders given in relation to a breach of discipline or an alleged breach of discipline; or

(da) gives misleading information to the Commissioner or a member or person having authority over the member in relation to a breach of discipline or an alleged breach of discipline; or

(db) fails to be of good behaviour for a period fixed under section 84D(c); or

(e) uses a substance (including liquor or a drug) in a manner that results in unacceptable performance of the member's duties or improper conduct whilst on duty; or

(f) is absent from duty except:

(i) where proper leave has been granted; or

(ii) with reasonable cause; or

(g) is convicted of an offence, whether within or outside the Territory; or

(h) aids, abets, counsels or procures, or, by any act or omission, is directly or indirectly knowingly concerned in or a party to, a breach of discipline committed by another member in circumstances referred to in paragraphs (a), (b), (c), (d), (da), (db), (e) or (f).

76A Suspension of member facing criminal charges

Where a member is charged with having committed an offence, whether within the Territory or elsewhere, the Commissioner may suspend the member from duty.

77 Effect of pending criminal proceedings

For the avoidance of doubt, anything may be done or continued under this Part notwithstanding that criminal proceedings in respect of the matter to which it relates have been commenced or are contemplated.

Division 2 Public interest dismissal

78 Dismissal

Notwithstanding anything else in this Act, a member may be immediately dismissed from the Police Force where the Commissioner:

(a) is of the opinion that the member has committed a breach of discipline and it is in the public interest that the member be immediately dismissed; and

(b) has taken into account any written response of the member made after service on the member of a notice under section 79.

Division 3 Disciplinary powers generally

79A Member to answer questions or give information in relation to breach of discipline

(1) This section applies to a member who is required by the Commissioner or a prescribed member to answer questions or provide information in relation to an alleged or suspected breach of discipline by a member, whether or not an investigation has been initiated under section 81(3).

(2) The member is not excused from answering a question or providing information when required to do so in relation to the breach of discipline or alleged breach of discipline on the ground that the answer to the question or the information may:

(a) incriminate the member; or

(b) make the member liable to a penalty.

(3) However, the answer to the question or the information is not admissible as evidence against the member:

(a) in any other proceedings against the member under this Act; or

(b) in civil or criminal proceedings in a court.

(4) Subsection (3) does not apply in relation to proceedings for the following matters:

(a) perjury;

(b) employment;

(c) a claim in tort against the Territory made by a member.

Note for section 79A

Failure to comply with this section may constitute a breach of discipline under section 76(d) or (da).

79 Service of notice for alleged breach of discipline

Where:

(a) the Commissioner believes, on reasonable grounds, that a member; or

(b) a prescribed member believes, on reasonable grounds, that a member of a rank below that of the prescribed member,

has committed a breach of discipline and considers that the breach is serious enough to warrant action being taken under this Part, the Commissioner or prescribed member shall serve a notice under section 84F on the member.

80 Action pending decision on alleged breach of discipline

(1) Where:

(a) the Commissioner believes, on reasonable grounds, that a member; or

(b) a prescribed member believes, on reasonable grounds (and advises the Commissioner in writing of the belief), that a member of a rank below that of the prescribed member,

has committed a breach of discipline, the Commissioner may, at any time after the notice under this Part has been served on the member:

(c) transfer the member:

(i) from the position held by the member in the Police Force to another position in the Police Force; and/or

(ii) from the locality in the Territory where the member is stationed to another locality in the Territory;

(d) direct the member to take any leave that has accrued to the member under this Act; or

(e) suspend the member from the Police Force,

or do any one or more of those things, to have effect either concurrently or sequentially.

(2) A decision of the Commissioner under subsection (1):

(a) is final and not capable of being reviewed in a court; and

(b) remains in force, unless varied or revoked by the Commissioner, until all actions under this Part in respect of the member are completed.

81 Member's response to notice for alleged breach of discipline

(1) Where the Commissioner or prescribed member is satisfied with the response provided by a member served with a notice under section 84F, the Commissioner or prescribed member shall take no further action on the matter.

(2) Where a member served with a notice under section 84F admits the breach of discipline or does not respond to the notice within the period specified in the notice, the Commissioner or prescribed member may:

(a) take no further action on the matter;

(b) counsel and caution the member;

(c) cause the member to be formally cautioned in writing; or

(d) where the Commissioner or prescribed member considers the breach of discipline is of such a serious nature that action under paragraph (a), (b) or (c) is not appropriate:

(i) in the case of the Commissioner – take such action under section 84D as the Commissioner thinks appropriate as if the Commissioner had received a report prepared under section 84C(1)(b); or

(ii) in the case of the prescribed member:

(A) take such action in relation to, or impose such a fine on, the member as the prescribed member has power to take or impose under this Act; or

(B) report the breach of discipline to the Commissioner recommending a course of action that the Commissioner might consider taking under section 84D.

(3) Where a member served with a notice under section 84F:

(a) does not respond to the notice within the period specified in the notice and the Commissioner or prescribed member does not consider action under subsection (2) is appropriate;

(b) responds to the notice within the period specified but does not admit the breach of discipline; or

(c) provides an explanation that the Commissioner or prescribed member does not consider satisfactory,

the Commissioner or prescribed member may arrange for an investigation to be carried out by a member or members to determine whether the member has in fact committed a breach of discipline.

82 Conduct of investigation

(1) Nothing in this Part shall be taken as:

(a) preventing a prescribed member who arranges an investigation referred to in section 81 from carrying out the investigation, alone or in conjunction with another member or other members; or

(b) preventing more than one investigation to be carried out to determine whether a member has committed a breach of discipline.

(2) Subject to subsection (3), an investigation referred to in section 81(3) shall be completed within 3 months after it is arranged.

(3) The Commissioner may allow a longer period to complete an investigation under subsection (2) after reviewing the progress of the investigation before the expiration of the period of 3 months and thereafter before the expiration of each succeeding period of one month during which the investigation continues.

83 Medical examinations

(1) In the course of an investigation referred to in section 81, if the member or members carrying out the investigation is or are of the opinion that it is relevant to the investigation for the member the subject of the investigation to be so examined, the member or members may direct that member to submit to an examination by one or more:

(a) health practitioners; or

(b) other persons having relevant qualifications,

as the member or members carrying out the investigation thinks or think fit.

(2) Where a member has been directed under subsection (1) to submit to an examination, the member may, in addition, submit to an examination by a health practitioner or other person referred to in that subsection of the member's own choice and submit the report of that examination to the Commissioner or prescribed member, as the case may be, who shall take the report into account.

84 Outcome of investigation

Where, as a result of an investigation, the Commissioner or prescribed member:

(a) is satisfied that the member has not committed a breach of discipline, the Commissioner or prescribed member shall take no further action; or

(b) continues to believe, on the same or different reasonable grounds, that the member has committed a breach of discipline, the Commissioner or prescribed member may:

(i) take no further action;

(ii) counsel and caution the member;

(iii) cause the member to be formally cautioned in writing; or

(iv) charge the member with the breach of discipline alleged.

84A Charge of breach of discipline

(1) Where the Commissioner or prescribed member charges a member with a breach of discipline, the Commissioner or prescribed member shall appoint a prescribed member or prescribed members to conduct a hearing into the charge.

(2) With the consent of the member charged, the prescribed member laying the charge may be appointed under subsection (1).

(3) Where a member is charged with a breach of discipline, notice under section 84F shall be served on the member.

84B Conduct of hearing

(1) At a hearing into a charge of breach of discipline by a member:

(a) the member may be represented by a friend, a colleague, a legal practitioner or a member of the Police Association to which the member belongs;

(b) the hearing may proceed in the absence of the member where the member fails to attend and it is proved to the satisfaction of the member or members conducting the hearing that a notice under this Part was served on the member;

(c) the standard of proof to be applied in relation to the hearing is the civil standard of proof, on the balance of probabilities;

(d) subject to this section, the hearing shall be at the discretion of the prescribed member or members conducting it and shall be conducted with as little formality and technicality as possible, given the need to properly and equitably consider the matters before the prescribed member or members;

(e) the prescribed member or members conducting the hearing is or are not bound by the rules of evidence but the prescribed member is or members are bound by the rules of natural justice; and

(f) the prescribed member or members conducting the hearing shall ensure that the hearing is electronically recorded.

(2) Where a member is represented by a legal practitioner at a hearing under this section, the prescribed member or members conducting the hearing may be assisted at the hearing by a legal practitioner.

(3) Representation or assistance provided by a legal practitioner under this section shall be as determined by the prescribed member or members conducting the hearing.

84C Action that may be taken after hearing

(1) As soon as practicable after completing a hearing referred to in section 84B, the prescribed member or members conducting the hearing, if of the opinion that the member committed the breach of discipline:

(a) may take such action in relation to, or impose such fine on, the member permitted by the Regulations as the prescribed member or members think fit; or

(b) shall, if not permitted by the Regulations to take the action or impose the fine the prescribed member or members considers appropriate, in writing, report the opinion indicating the reasons for it and recommending a course of action the Commissioner or prescribed member might consider taking in the matter.

(2) A report under subsection (1)(b) shall be delivered to:

(a) the Commissioner or the prescribed member who made the appointment or appointments under section 84A(1); or

(b) a prescribed member who is permitted by the Regulations to take the action or impose the fine recommended in the report.

84D Order of Commissioner or prescribed member

The Commissioner or prescribed member, on receiving a report prepared under section 84C(1)(b), may take no further action on the matter or (in the case of a prescribed member, to the extent that the Regulations so permit):

(a) counsel and caution the member;

(b) cause the member to be formally cautioned in writing;

(c) take no further action on the basis that the member be of good behaviour for a period, not exceeding 12 months, fixed by the Commissioner or prescribed member;

(d) impose on the member a fine not exceeding $2,000;

(e) reduce the member to a rank below the rank which the member held at the date of the hearing;

(f) reduce the rate of salary of the member to a rate of salary within the limits of the salary fixed for the rank held by the member;

(g) transfer the member:

(i) from the position held by the member in the Police Force to another position in the Police Force; and/or

(ii) from the locality in the Territory where the member is stationed to another locality in the Territory;

(h) suspend the member from the Police Force, for a period not exceeding 3 months, subject to such conditions as the Commissioner specifies;

(j) order the member to pay, by way of costs, compensation or restitution, such amount as the Commissioner or prescribed member considers appropriate to the matter; or

(k) dismiss the member from the Police Force,

or do any one or more of those things, to have effect either concurrently or sequentially.

84E Review of actions taken or fines imposed

(1) Where under this Part a prescribed member takes action or imposes a fine on a member, the member may, within 7 days of being advised of the action or fine, apply in writing to the

Commanding Officer of the Police Command in which the member was employed at the time the breach was committed to have the matter reviewed.

(2) As soon as practicable after receiving an application under subsection (1), the Commanding Officer shall arrange for a prescribed member holding a rank higher than that of the prescribed member taking the action or imposing the fine to review the matter.

(3) Subject to the Regulations and the directions, if any, of the Commanding Officer, a prescribed member required under subsection (2) to review a matter may review it in such manner as the prescribed member thinks fit and, in substitution for the action taken or fine imposed by the other prescribed member, take such action or impose such fine as he thinks fit and which could have been taken or imposed by the other prescribed member.

(4) Nothing in this section prevents a member from appealing under Part VI against an action taken or fine imposed under subsection (3) or section 81(2)(d)(ii).

Division 4 General

84F Notices

(1) A notice:

(a) under section 79 shall contain:

(i) details of the action or omission constituting the breach of discipline; and

(ii) a statement that a written response is required from the member within 7 days of receipt of the notice; or

(b) under section 84A shall contain details of the charge of the breach of discipline and the date, time and place of the hearing.

(2) A notice under section 79 or 84A shall be served on a member:

(a) by delivering it to the member personally; or

(b) by posting it to the member at the member's last-known place of residence.

84G Payment of salary during suspension

A member who is suspended under section 76A or 80 shall, unless the Commissioner otherwise directs, be paid salary during the period of the suspension.

84H Payment and leave when no disciplinary action taken or appeal allowed

Where a member is, under section 80:

(a) suspended and the member's suspension is without salary; or

(b) directed to take leave which has accrued to the member,

and subsequently no action under this Part is taken (or, as a result of an appeal under Part VI, no such action is allowed) in relation to the alleged breach of discipline:

(c) the member is to be paid, in respect of the period of the suspension, the salary to which the member would have been entitled had the suspension not been imposed; or

(d) have the member's leave re-instated,

as the case may be.

84J Payment of fines and amount of money

(1) A fine imposed under this Part is a debt due and payable to the Territory by the member on whom it is imposed.

(2) An order to pay an amount by way of costs, compensation or restitution under this Part is a debt due and payable to the person in respect of whom the order is made by the member against whom the order is made.

Part V Inability of member to discharge duties

87 Inability of member to discharge duties

Where the Commissioner is of the opinion, on reasonable grounds, that a member:

(a) is not fit to discharge, suited to perform or capable of efficiently performing, the duties the member is employed to perform;

(b) because of circumstances beyond the member's control, is not performing those duties efficiently or satisfactorily; or

(c) is not qualified for the efficient and satisfactory performance of those duties,

the Commissioner shall, by notice in writing, advise the member of the Commissioner's opinion and the grounds on which the Commissioner has formed the opinion, and invite the member, within 14 days, to indicate in writing whether the member agrees with the Commissioner's opinion or to explain in writing any matter referred to in the notice.

88 Review of grounds

(1) As soon as practicable after the expiration of the 14 days referred to in section 87, the Commissioner shall, if not satisfied with the member's explanation, if any, arrange for a review to be carried out by one or more members to determine whether the Commissioner's opinion is well founded and shall, in writing, advise the member accordingly.

(2) In the course of a review referred to in subsection (1), if the member or members carrying out the review is or are of the opinion that it is relevant to the review for the member to be so examined, the member or members may direct the member to submit to an examination by one or more health practitioners as the member or members carrying out the review think fit.

(3) Where a member has been directed under subsection (2) to submit to an examination, the member may, in addition, submit to an examination by a health practitioner, of the member's own choice and submit the report of that examination to the member or members carrying out the review, who shall take the report into account.

(4) Where a member refuses to comply with a direction under subsection (2), the member or members carrying out the review shall notify the Commissioner of the refusal and the Commissioner, on receiving the notification, shall take such action under this Act (other than dismissing the member) as the Commissioner thinks fit.

(5) The member or members carrying out the review shall, in writing, advise the Commissioner and the member of their findings as a result of the review.

89 Action following review

If a member on whom a notice under section 87 is served indicates that the member agrees with the Commissioner's assessment or, as a consequence of a review referred to in section 88(1), the Commissioner remains of the opinion on the same or different grounds revealed by the review, the Commissioner may take no

action or:

(a) direct the member to take any leave that has accrued to the member under this Act;

(b) stand the member down from the Police Force, on full salary on compassionate grounds, for a period not exceeding 3 months;

(c) transfer the member to other duties, including duties (and at a rate of salary) of a lower rank; or

(d) advise the member, in writing, that the Commissioner intends to retire the member from the Police Force.

90 Stand-down during review under section 88

(1) At any time after a notice under section 87 has been served on a member the Commissioner may, if of the opinion that it is desirable to do so:

(a) stand the member down from the Police Force for a period not exceeding 3 months;

(b) direct the member to take any leave that has accrued to the member under this Act; or

(c) transfer the member to perform other duties, including duties (and at a rate of salary) of a lower rank,

pending the explanation of the member under section 87, the outcome of the review under section 88, the expiration of the period in which an appeal can be made, or where such an appeal is made, the final determination of the appeal,

(d) or do any one or more of those things, to have effect either concurrently or sequentially.

(2) Except as provided in this section, a decision of the Commissioner is final and is not capable of being reviewed in a court.

(3) The Commissioner may, from time to time, extend a period during which a member is stood down under subsection (1) for such periods, each not exceeding 3 months, as the Commissioner thinks fit.

(4) A member who is stood down under subsection (1) shall, unless the Minister otherwise directs, be paid salary during the period during which the member is stood down.

(5) Where a member appeals against the intention of the Commissioner to retire the member as referred to in section 89(d) and the appeal is allowed, the standing down of the member under this section terminates on the date on which the appeal is allowed.

(6) The standing down of a member under this section, unless it is sooner terminated, terminates on action being taken by the Commissioner under section 89(c) or (d).

(7) If for any reason other than retirement as referred to in section 89(d) a period during which a member is stood down under this section without salary comes to an end, the member shall be paid, in respect of that period, the salary to which the member would have been entitled had he not been stood down.

(8) Unless the Commissioner otherwise directs, a period during which a member is stood down under this section, other than a period that is terminated by or under this section, shall not be taken into account as service in calculating the person's sickness, recreation or long service leave entitlements as a member.

91 Medical incapacity

(1) A member shall be taken to be totally and permanently incapacitated for the purposes of this section if, because of a physical or mental condition, it is unlikely that the member will ever be able to work in any employment or hold any office for which the member is reasonably qualified by education, training or experience or could become reasonably qualified after retraining.

(2) Where the Commissioner or a prescribed member is of the opinion, on reasonable grounds, that a member or a member of a rank below that of the prescribed member is unable to efficiently or satisfactorily perform the member's duties because of a physical or mental condition, the Commissioner or prescribed member may direct the member to submit to an examination by one or more health practitioners as the Commissioner or prescribed member, as the case may be, thinks fit.

(3) Where a member has been directed under subsection (2) to submit to an examination, the member may, in addition, submit to an examination by a health practitioner, of the member's own choice and submit the report of that examination to the Commissioner or prescribed member, as the case may be, who shall take the report into account.

(4) After considering the results of the examination or examinations under subsection (2) or (3) and all other relevant information available to the Commissioner or prescribed member, as the case may be:

(a) the Commissioner may determine whether the member is totally and permanently incapacitated; or

(b) the prescribed member shall report the findings of the examination to the Commissioner who may then so determine.

(5) Where the Commissioner determines, or, following a report under subsection (4)(b), determines, that a member is totally and permanently incapacitated, the Commissioner may, after considering the provisions of any superannuation legislation applying to the member, retire the member from the Police Force on the grounds of invalidity or take such action under this Part as the Commissioner thinks appropriate.

(6) Where the Commissioner, after considering the results of the review and examinations under subsection (2) or (3) and all other information available to him (including a report under subsection (4)(b)) does not determine that the member is totally and permanently incapacitated but assesses the member to be unable to perform the member's duties efficiently or satisfactorily because of a physical or mental condition, the Commissioner shall take whatever steps he considers reasonable and practicable to facilitate the member resuming those duties or take such other action under this Part as the Commissioner thinks appropriate.

Part VI Appeals

Division 1 Promotion appeals

92 Promotion appeals

(1) Subject to this section, an appeal may be made by a person mentioned in subsection (1A) if the Commissioner:

(a) promotes, under section 16(1)(b) or (3), a member to the rank of Senior Sergeant or a rank below that rank; or

(b) makes an appointment contrary to section 18(5); or

(c) refuses, under section 166AA(3), to promote or transfer a member.

(1A) The appeal may be made by:

(a) in the case of a promotion – a member who is qualified, and who applied, for promotion to the rank to which the promotion was made; or

(b) in the case of an appointment – a Police Cadet who was, at the time of the appointment, qualified for promotion to the rank of Constable and who is still so qualified; or

(c) in the case of a refusal – the member whose promotion or transfer was refused.

(1B) The appeal must be made, in the manner and form prescribed by regulation, to a Promotions Appeal Board.

(2) The appeal must be lodged within 14 days, or a longer period as the Commissioner in a particular case allows, after:

(a) for an appeal against a promotion or appointment – notice is given in the *Police Gazette* of the promotion or appointment; or

(b) for an appeal against a refusal – written notice of the refusal is given to the member.

(3) The only ground on which an appeal may be made under subsection (1)(a) is that the appellant has superior merit to the member promoted.

(4) Subject to subsection (5), the procedures in and in relation to an appeal under this section (including the power to compel the attendance of witnesses and the giving of evidence), are as prescribed or, where there is no procedure prescribed in relation to a particular matter, are in the discretion of the Appeal Board.

(5) Neither the Commissioner nor an appellant may be represented by a legal practitioner at the hearing of an appeal under this section.

93 Promotions Appeal Boards

(1) For the purposes of section 92, the Commissioner shall, from time to time, establish such number of Promotions Appeal Boards as are required to expeditiously deal with appeals under that section.

(2) A Promotions Appeal Board shall be constituted by the following persons appointed by the Commissioner:

(a) a Chairman, who shall be appointed from a panel approved for that purpose by the Minister on the advice of the Commissioner given after consultation by the Commissioner with the Police Association;

(b) a person nominated by the Police Association; and

(c) one other person who shall be appointed from a panel approved for that purpose by the Minister on the advice of the Commissioner.

(3) A Promotions Appeal Board may:

(a) strike out an appeal that it considers vexatious or frivolous; and

(b) in any case, award costs in respect of an appeal.

(4) In determining an appeal, a Promotions Appeal Board may:

(a) disallow the appeal;

(b) allow the appeal and direct the Commissioner to promote the appellant; or

(c) direct the Commissioner to re-advertise the vacancy.

(5) Where the Commissioner is directed under subsection (4)(b) to promote an appellant but the appellant is unwilling to accept the promotion, the Commissioner may refer the matter back to the Appeal Board for directions (and the Appeal Board has jurisdiction to give such directions) or re-advertise the vacancy.

(6) The Chairman and members of a Promotions Appeal Board hold office:

(a) for 3 years; and

(b) subject to the terms and conditions determined by the Minister.

Division 2 Inability and disciplinary appeals

94 Inability or disciplinary appeals

(1) A member aggrieved by:

(a) the action of the Commissioner under section 78;or

(b) the action under section 84E(3) by a member; or

(c) the action under section 81(2)(d) or 84D by the Commissioner or a prescribed member; or

(ca) a direction of the Commissioner under section 84G that the member not be paid salary during the period of the member's suspension under section 76A or 80; or

(d) a direction, action or intention under section 89 by or of the Commissioner; or

(e) a decision or opinion as a result of which such an action was taken, direction given or intention made,

may, within 14 days after being notified of the action, direction or intention (or, in a case referred to in paragraph (b), within 14 days after being notified of the action taken as a result of a review under section 84E(3)), and in the prescribed manner and form:

(f) in the case of an action referred to in paragraph (a), (b), (c) or a decision or opinion relating to such action – appeal to a Disciplinary Appeal Board against the action; or

(fa) in the case of a direction referred to in paragraph (ca) – appeal to a Disciplinary Appeal Board against the direction; or

(g) in the case of a direction, action or intention referred to in paragraph (d) or a decision or opinion relating to such direction, action or intention – appeal to an Inability Appeal Board against the direction, action or intention.

(2) For the purposes of this section, an Appeal Board shall be constituted by the following persons appointed by the Commissioner:

(a) a Chairman, who shall be appointed from a panel approved for that purpose by the Minister on the advice of the Commissioner given after consultation by the Commissioner with the Police Association;

(b) a person nominated by the Police Association; and

(c) one other person, who shall be from a panel approved for that purpose by the Minister on the advice of the Commissioner.

(3) Nothing in this Act prevents more than one Disciplinary or Inability Appeal Board (to deal with different matters under this Part) being in existence at the one time.

(4) The Chairman and members of a Disciplinary or Inability Appeal Board hold office:

(a) for 3 years; and

(b) subject to the terms and conditions determined by the Minister.

(5) The person appointed to be Chairman must:

(a) be a lawyer who has been admitted to the legal profession for at least 5 years; or

(b) have other qualifications or experience which, in the opinion of the Minister, are suitable for the office of Chairman.

(6) In determining an appeal, a Disciplinary or Inability Appeal Board may:

(a) disallow the appeal; or

(b) allow the appeal in whole or in part and direct the Commissioner or member to take such action under sections 78, 81(2)(d), 81(3), 83 or 89 as the Appeal Board considers necessary.

(7) In this section, for the purpose of enabling an appeal under subsection (1) against the dismissal of a member from the Police Force to be made, ***member*** includes a former member.

95 Procedural matters

(1) This section applies only to and in relation to appeals under section 94.

(2) Subject to subsection (3), an appeal shall be by way of a review of the material taken into account by the Commissioner or prescribed member against whose direction, action, intention, decision or opinion the appeal is lodged.

(3) Where a party to an appeal considers that there was additional material that was not available to the Commissioner or prescribed member before he took the action or formed the intention, the party

may, in the prescribed manner and form, apply to the Appeal Board to admit that material and, in its discretion, to deal with the appeal as a hearing de novo.

(4) For the purpose of determining whether to admit the material or to declare the appeal a hearing de novo, the Appeal Board may conduct a preliminary hearing.

(5) The decision of the Appeal Board on an application under subsection (3) is capable of being reviewed by a court.

(6) The procedure for an appeal or a preliminary hearing is, subject to this section and the Regulations, within the discretion of the Appeal Board.

(7) An appeal under this Part shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Part and a proper consideration of the matter permit.

(8) If an Appeal Board thinks fit, an appeal may be determined without an oral hearing.

(9) Where an Appeal Board conducts an appeal by holding an oral hearing, it shall give reasonable notice to the appellant, the Commissioner and any other person who is joined as a party to the appeal of the date, time and place at which the oral hearing is to occur.

(10) An appeal shall not be heard in public unless either party to the appeal so requests and the Appeal Board agrees.

(11) Where an Appeal Board conducts an appeal by holding an oral hearing, each party is entitled to appear and to tender a written summary of the submissions made at the oral hearing.

(12) Where an Appeal Board conducts an appeal without holding an oral hearing, each party is entitled to tender written submissions.

(13) An Appeal Board, when conducting an appeal as a hearing de novo, may admit evidence at the appeal notwithstanding that the evidence would not be admissible in a court.

(14) An Appeal Board, when conducting an appeal as a hearing de novo, may:

(a) summon a person whose evidence appears to be material to the appeal; and

(b) require a person appearing before it to give evidence on oath; and

(c) require a person to produce documents or records in the person's possession or under the person's control which appear to be material to the appeal.

(15) A person who, without reasonable excuse (and to whom, where the person is not a member, payment or tender of reasonable expenses has been made), neglects or fails to attend in obedience to a summons under subsection (14) or to take an oath, to answer relevant questions or to produce relevant documents when required to do so under that subsection, is guilty of an offence.

Maximum penalty: 40 penalty units.

(16) An Appeal Board may:

(a) strike out an appeal that it considers vexatious or frivolous; and

(b) in any case, award costs both in respect of a preliminary hearing and the appeal.

(17) An Appeal Board shall give its decisions in writing, shall cause copies of decisions to be served on each of the parties and shall, if a party within 14 days after the copy of the relevant decision is served on him so requests, provide the party with written reasons for the decision.

Division 3 General

96 Person to answer questions

A person is not excused from answering a question when required to do so under this Part on the ground that the answer to the question might tend to incriminate the person or make the person liable to a penalty, but the answer to any such question is not admissible in evidence against the person in any other proceedings against the person under this Act or in criminal proceedings against the person in a court.

97 Staff of Appeal Boards

(1) There shall be a Registrar of Appeal Boards who shall be appointed by the Minister.

(2) The Registrar shall perform such duties and functions as are provided by or under this Act and such other duties and functions as a Chairman of an Appeal Board directs.

(3) The Registrar, and the staff necessary to assist the Registrar, shall be persons appointed or employed under this Act or the *Public Sector Employment and Management Act 1993*.

98 Serving member on Appeal Board to be considered on duty

A member who attends or travels to or from a meeting of an Appeal Board in the member's capacity as a member of the Appeal Board shall be regarded as performing the functions and duties of his office as a member of the Police Force during that period.

99 Disclosure of interests

Where a matter comes before an Appeal Board in which a member of the Appeal Board is directly concerned, the member shall notify his interest to the Minister and shall temporarily cease to act, and the Minister shall, in the prescribed manner, appoint a temporary substitute member of the Appeal Board.

100 Communication of Appeal Board matters

A member of an Appeal Board shall not communicate information which he has received in the performance of the member's duties in connection with the exercise of the powers or the performance of the functions of the Appeal Board to a person other than a member of the Appeal Board or to a person to whom the Appeal Board has authorised the member to communicate the information.

Maximum penalty: 17 penalty units.

101 Protection of members, parties and witnesses

(1) A member of an Appeal Board has, in the performance of the member's duty as a member, the same protection as a Supreme Court Judge.

(2) A legal practitioner or other person appearing before an Appeal Board has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings in the Supreme Court.

(3) Subject to this Act, a person summoned to attend or a person appearing before an Appeal Board as a witness has the same protection, and is, in addition to the penalties provided by this Act, subject to the same liabilities, in any civil or criminal proceedings, as a witness in proceedings in the Supreme Court.

Part VIA Use of dangerous drugs for training

Division 1 Preliminary matters

102 Object of Part

(1) The object of this Part is to ensure that training in the Police Force about dangerous drugs is realistic and effective.

(2) The object is to be achieved by putting in place arrangements:

(a) to allow members of the Police Force to have access to dangerous drugs for training; and

(b) to ensure those dangerous drugs:

(i) are carefully handled to ensure their effectiveness for training is not compromised; and

(ii) are subject to strict tracking and accountability requirements.

103 Definitions

In this Part:

agency arrangement, see section 104.

disposal, of a batch of a dangerous drug used for training, includes:

(a) the destruction of the batch; and

(b) the return of the batch to a relevant agency under an agency arrangement.

drug control officer, see section 106.

drug training direction, see section 105.

drug vault means a facility that is:

(a) suitable for the storage of dangerous drugs in the possession of the Police Force for training under the authority of a drug training direction; and

(b) secure against unauthorised entry.

register means the register of dangerous drugs used for training kept under section 109.

relevant agency means a department or other agency of the Commonwealth, a State or a Territory.

senior member means a member of or above the rank of Assistant Commissioner.

training means training in the Police Force about dangerous drugs.

Division 2 Administrative matters

104 Agency arrangement

(1) An agency arrangement is an arrangement, or a series of arrangements, between the Commissioner and the chief executive officer (by whatever name known) of a relevant agency providing for the following:

(a) the transfer of possession of a batch of a dangerous drug from the possession of the relevant agency into the possession of the Police Force;

(b) that the batch of the dangerous drug is to be used for training in the Police Force;

(c) the type and extent of the training for which the batch of the dangerous drug is to be used;

(d) what is to be done with the batch of the dangerous drug at the end of the training;

(e) anything else the parties to the arrangement consider appropriate.

Example for subsection (1)

A series of arrangements could consist of a first arrangement establishing basic principles to govern the supply by the relevant agency to the Police Force of dangerous drugs to be used for training, a second arrangement establishing particular procedures to be followed for transferring particular types of dangerous drugs between the relevant agency and the Police Force, and a third arrangement providing for special circumstances applying to a batch of one of the particular types of dangerous drugs mentioned in the second arrangement.

(2) The Commissioner may enter into an agency arrangement only if the relevant agency is authorised to possess the batch of the dangerous drug the subject of the arrangement.

(3) The Commissioner must ensure the Police Force complies with an agency arrangement.

105 Drug training direction

(1) A drug training direction is a direction given by a senior member:

(a) authorising:

(i) the keeping of a batch of a dangerous drug; and

(ii) the use of the batch in training; and

(iii) the disposal of the batch at the end of the training; and

(b) stating the conditions under which the keeping, use and disposal of the batch of the dangerous drug is authorised.

(2) A senior member may give a drug training direction for a batch of a dangerous drug only if the batch:

(a) is in the possession of the Police Force:

(i) having been forfeited, or ordered to be forfeited, to the Territory under an Act; or

(ii) having been ordered under an Act to be disposed of or destroyed; or

(b) comes into the possession of the Police Force under an agency arrangement.

(3) The conditions stated in a drug training direction must include the following:

(a) the batch must be used only for the training purposes specified in the condition;

(b) the training for which the batch is used must be of the type and extent specified in the condition;

(c) if at any time the batch or part of the batch is not being stored in a drug vault, it must:

(i) be under the effective control of a drug control officer or one or more of the members specified in the condition; or

(ii) be kept securely in a way specified in the condition;

(d) as soon as practicable after the end of the training, the disposal of the batch must be as specified in the condition.

Example of training purpose for subsection (3)(a)

Training police dogs to detect the odour of dangerous drugs.

(4) Subsection (3) does not limit the conditions that may be included in a drug training direction.

(5) A senior member who gives a drug training direction must ensure that members of the Police Force comply with the conditions stated in the direction.

106 Drug control officer

(1) A drug control officer is a member of the Police Force of or above the rank of Superintendent who is authorised in writing by the Commissioner to perform the functions of administering and controlling the following:

(a) the receipt into the possession of the Police Force of batches of dangerous drugs to be used for training;

(b) the storage of the batches;

(c) the movement of the batches, or parts of the batches, in and out of storage for use in training;

(d) the disposal of the batches.

(2) A drug control officer must perform the functions of the position in accordance with this Part and any conditions included in the authorisation given under subsection (1).

(3) A drug control officer has power to do all things necessary to be done for the performance of the functions of the position.

Division 3 Keeping dangerous drugs for use in training

107 When dangerous drugs may be kept for training

A batch of a dangerous drug may lawfully be kept in the possession of the Police Force and used for training if:

(a) the keeping of the batch and its use for training is authorised under a drug training direction; and

(b) the batch is kept and used for training in accordance with the conditions included in the drug training direction.

108 Requirements for keeping dangerous drugs for training

(1) The following requirements apply in relation to the possession by the Police Force of dangerous drugs for training:

(a) each batch of a dangerous drug must be stored in a drug vault;

(b) when a batch of a dangerous drug is received into a drug vault for storage for the first time, it must be accompanied by a document certifying, in a way approved by the Commissioner, the weight and purity of the batch;

(c) a drug vault must not be used for storing a dangerous drug that is in the possession of the Police Force other than for training;

(d) a drug vault must be designed and constructed for ensuring (to the greatest practicable extent) that each batch of a dangerous drug stored in it keeps its level of effectiveness for training;

(e) a drug vault must include enough separate storage to ensure that no batch of a dangerous drug stored in the vault can be contaminated by another batch or can otherwise be made ineffective or less effective for training;

(f) the whole of a batch of a dangerous drug must be stored in a drug vault at all times, except to the extent the batch or a part of the batch is required to be held somewhere else for training;

(g) an audit of each drug vault must be conducted at least once every 3 months by a member of the Police Force who:

(i) is of or above the rank of Commander; and

(ii) is not otherwise directly associated with the keeping or use of dangerous drugs for training;

(h) when a batch of a dangerous drug leaves a drug vault for the last time:

(i) it must be accompanied by a document certifying, in a way approved by the Commissioner, the weight and purity of the batch; and

(ii) a copy of that certifying document must be kept at the drug vault or at another place the Commissioner directs.

(2) Without limiting the scope of an audit under subsection (1)(g), the audit must include the following measures:

(a) weighing each batch of dangerous drugs in the drug vault to find out whether all quantities of dangerous drugs that should be in the drug vault at the time of the audit are in the vault;

(b) finding out whether the drug vault is storing any dangerous drugs, or anything else, that should not be stored in the vault;

(c) a review of the register.

(3) Without limiting the requirements for an audit under subsection (1)(g), requirements for the audit include the following:

(a) the performance of the audit must be supervised by a member who:

(i) is a senior member; and

(ii) is not otherwise directly associated with the keeping or use of dangerous drugs for training;

(b) all batches of dangerous drugs stored in the drug vault must be the subject of analysis by an analyst as defined in the *Misuse of Drugs Act 1990*;

(c) the accuracy of the scales used in measuring the weights of batches of dangerous drugs stored in the drug vault must be certified in a way approved by the Commissioner.

Division 4 Register of dangerous drugs used for training

109 Register

(1) The Commissioner must keep a register of dangerous drugs used for training.

(2) The register may form part of another register, whether kept under this or another Act.

(3) The Commissioner:

(a) subject to subsection (4), may keep the register in the way the Commissioner considers appropriate, including by keeping it entirely or partly in electronic form; and

(b) must ensure the register is kept in a secure place.

(4) The register must be kept in a way that (to the greatest practicable extent) enables a drug control officer, or a member performing a lawful function associated with the keeping of dangerous drugs in the possession of the Police Force under this Act (whether or not under this Part), to comply with the requirements of this Act.

(5) An entry in the register may be made only by a drug control officer or a person authorised by the Commissioner to make entries in the register.

(6) If a senior member gives a direction under section 111 restricting access to information in the register, a drug control officer or person authorised by the Commissioner under subsection (5) must ensure the information is recorded in a way that (to the greatest practicable extent) stops disclosure of the information to a person not authorised to have access to it.

110 Information to be recorded in register

(1) The following information must be recorded in the register about each batch of a dangerous drug received into the possession of the Police Force to be used for training:

(a) the name of the dangerous drug;

(b) a description of the batch;

(c) the weight, in grams, of the batch;

(d) a description of any container or packaging, and of any other item, used for conveying the batch into the possession of the Police Force;

(e) the weight, in grams, of any container or packaging, and any other item, used for conveying the batch into the possession of the Police Force;

(f) when the batch was received into the possession of the Police Force;

(g) the purity of the batch and details of the certification of the purity;

(h) a description of the circumstances in which the batch came into the possession of the Police Force.

(2) The following information must be recorded in the register if all or part of a batch of dangerous drugs (***the drugs***) is taken from a drug vault to be used for training:

(a) when the drugs leave the vault;

(b) the nature of the training for which the drugs are to be used;

(c) the condition of any container or packaging in which the drugs leave the vault;

(d) the weight, in grams, of the drugs when they leave the vault;

(e) the condition of any container or packaging in which the drugs are returned to the vault;

(f) the weight, in grams, of the drugs when they are returned to the vault.

(3) The following information must be recorded in the register when a batch of dangerous drugs leaves a drug vault for the last time for disposal in accordance with a drug training direction:

(a) the weight, in grams, of the batch when it leaves the vault;

(b) the weight, in grams, of any container or packaging in which the batch leaves the vault.

(4) Recording under subsection (1), (2) or (3) must be performed as close as reasonably practicable to the occurrence of the event to which the recording relates.

111 Restriction on access to information in register

(1) A senior member may give a direction that only the following persons may have access to information recorded in the register:

(a) a drug control officer who reasonably needs the information for the performance of the officer's functions under this Part;

(b) a member who reasonably needs the information for conducting or supervising an audit of a drug vault under this Part;

(c) any other member who is performing a function associated with the keeping of dangerous drugs in the possession of the Police Force under this Act (whether or not under this Part) and reasonably needs the information for the performance of the function;

(d) any other person specified in the direction.

(2) A direction under subsection (1) must state whether it applies to all information recorded in the register or only to information of a type specified in the direction.

(3) A senior member may give a direction under subsection (1), and keep the direction in place, only if the senior member considers it is necessary to do so to ensure:

(a) the security of a drug vault; or

(b) the safety of:

(i) a drug control officer; or

(ii) another person associated with keeping dangerous drugs in the possession of the Police Force for training; or

(iii) a person associated with a person mentioned in subparagraph (i) or (ii).

(4) There must be a written record of the reasons for each direction given under subsection (1).

Part VII Police powers

Division 1 Preliminary matters

116 Interpretation

(1) For this Part:

(a) anything with respect to which an offence has been committed or is believed on reasonable grounds to have been committed;

(b) anything with respect to which there are reasonable grounds for believing that it will offer evidence of the commission of any such offence; or

(c) anything with respect to which there are reasonable grounds for believing that it is intended to be used for the purposes of committing any such offence,

shall be taken to be a thing connected with or relating to an offence, and includes anything that has been unlawfully obtained in connection with or relating to an offence.

(2) In this Part:

aircraft includes any machine that can derive support in the atmosphere from the reactions of the air.

ammunition, see the *Firearms Act 1997*.

at, a place, includes in or on the place.

explosive includes the following:

(a) a substance or compound that is, itself, or in combination with another substance or compound, by the application of a suitable stimulus to a small portion of its mass, capable of:

(i) being converted almost instantaneously into another substance, largely or entirely gaseous; and

(ii) creating an explosion;

(b) a device made or adapted to enable it to be used in combination with a substance or compound mentioned in paragraph (a) to create an explosion;

(c) anything prescribed by regulation to be an explosive.

offence means an offence against a law of the Territory or an Act of the Commonwealth.

place includes:

(a) vacant land;

(b) premises; and

(c) an aircraft, ship, train or vehicle.

premises includes:

(a) a building or structure;

(b) a part of a building or structure; and

(c) land on which a building or structure is situated.

restricted weapon means:

(a) a firearm; or

(b) a controlled weapon, an offensive weapon or a prohibited weapon, each as defined in section 3 of the *Weapons Control Act 2001*.

ship means a vessel or boat of any description, and includes a floating structure and a hovercraft or similar craft, but does not include a ship under the control of the Australian Defence Force or the defence force of a foreign country.

vehicle means any vehicle propelled by internal combustion, steam, gas, oil, electricity or any other power and used or intended for use or adapted or capable of being adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer or caravan intended or adapted or capable of being adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to form or to have formed part of such a vehicle, trailer or caravan and anything attached to such a vehicle, trailer or caravan.

(7) In this Part, a reference to an information, unless the contrary intention appears, includes a complaint, and informant includes a complainant.

(8) For this Part, a person is deemed to have made an application to a court, judge or justice of the peace by telephone if the person's application, any submissions concerning the application, and any information required by the court, judge or justice of the peace in connection with the application are given to the judge or justice either wholly or in part, by means of telephone, telex, radio or similar facilities.

(9) For the purposes of this Part, a person shall not be taken to have been charged with an offence unless:

(a) subject to paragraph (b), particulars of the charge have been entered in a Police Station charge book; or

(b) where it is not practicable to comply with the requirements of paragraph (a), a person is held in custody following his arrest and has been advised by a member that he will be charged with an offence.

Division 1A Use of dogs and horses

116A Definitions

In this Division:

dangerous thing means any of the following:

(a) a dangerous drug;

(ab) a precursor;

(b) drug manufacturing equipment as defined in section 120A;

(d) a restricted weapon;

(e) ammunition;

(f) an explosive;

(g) a thing prescribed by regulation to be a dangerous thing;

(h) a thing mentioned in paragraphs (c) to (g) in connection with a target of an authorisation under the *Terrorism (Emergency Powers) Act 2003*.

detection, of a dangerous thing, includes the following:

(a) deploying a detection dog in the vicinity of a person to ascertain whether the dog can detect the odour of a dangerous thing on the person;

(b) deploying a detection dog in the vicinity of or at a place to ascertain whether the dog can detect the odour of a dangerous thing at the place.

detection dog, in relation to the detection of a dangerous thing, means a police dog trained to detect that dangerous thing.

116B Extended application of Division

(1) This Division extends to the use by the Police Force of dogs that:

(a) are provided to the Police Force by another body (including an agency or department of the Commonwealth) to be used under this Division; and

(b) are under the control of a handler who is not a member of the Police Force.

(2) If a police dog is under the control of a handler who is not a member of the Police Force:

(a) the handler is entitled to accompany the member using the dog and enter and remain at any place in accordance with section 116D; and

(b) sections 116E and 116G apply to the handler as if the handler were the member using the dog.

116C Authority to use police dogs and police horses

(1) A member of the Police Force is authorised to use a police dog or a police horse to assist the member generally in the exercise of the member's powers or performance of the member's functions.

(2) A member is authorised to use a detection dog to assist the member in the exercise of the member's powers or performance of the member's functions relating to the detection of a dangerous thing.

(3) A member using a police dog or police horse must comply with this Division and any of the following that relate to the use of police dogs or police horses:

(a) general orders;

(b) orders, instructions or guidelines published in the *Police Gazette*.

116D Authority for entry of police dogs and police horses

(1) Despite any other law in force in the Territory, if a member of the Police Force uses a police dog or police horse in accordance with section 116C, the dog or horse may accompany the member and enter and remain at any place the member may lawfully enter and remain.

(2) To avoid doubt, subsection (1) applies whether the member is authorised to enter the place:

(a) under a warrant; or

(b) by an Act, without a warrant.

116E Control of police dogs and police horses

(1) A member of the Police Force using a police dog or police horse is required to keep the dog or horse under control to the extent that is reasonable in the circumstances.

(2) A member using a detection dog to assist in the detection of a dangerous thing must take all reasonable precautions to prevent the dog touching a person.

116F Reasonable grounds for search without warrant on indication of detection dog

(1) Subsection (2) applies if, before exercising a power under an Act to search a person or place without a warrant, a member of the Police Force is required to form a suspicion on reasonable grounds that:

(a) the person is carrying or has in the person's possession, or is in control of, a dangerous thing; or

(b) there is something at the place (including in a vehicle at a public place) that may be a dangerous thing.

(2) There are reasonable grounds for the suspicion if a detection dog indicates it has detected the odour of a dangerous thing:

(a) on the person or on, or in, a thing in the person's immediate control; or

(b) on or in a thing, not in the person's immediate control but which the member suspects on reasonable grounds is connected with the person, that is at the place where the detection is being carried out; or

(c) at the place.

116G Protection from liability for use of police dog or police horse

(1) A member of the Police Force is not civilly or criminally liable if a police dog or police horse, while being used by the member in good faith in the exercise of a power or performance of a function as a member:

(a) comes into physical contact with a person or a person's clothing; or

(b) causes damage to a thing.

Example of physical contact for subsection (1)(a)

Restraining, pushing, biting or kicking a person.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act of the dog or horse.

(3) A member of the Police Force or the Territory is not civilly or criminally liable merely because a police dog or police horse entered or was at a place.

(4) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

116H Non-application of certain laws

(1) The following provisions do not apply in relation to a police dog:

(a) section 75A of the *Summary Offences Act 1923*;

(b) Part X of the *Law Reform (Miscellaneous Provisions) Act 1956*.

(2) Any other law of the Territory relating to dogs or horses does not apply in relation to police dogs or police horses.

Division 1B Use of electronic drug detection systems

116J Reasonable grounds for search without warrant on indication of electronic drug detection system

(1) Subsection (2) applies if, before exercising a power under an Act to search a person or place without a warrant, a member is required to form a suspicion on reasonable grounds that:

(a) the person is carrying or has in the person's possession, or is in control of, a dangerous substance; or

(b) there is something at the place (including in a vehicle at a public place) that may be a dangerous substance.

(2) There are reasonable grounds for the suspicion if an electronic drug detection system indicates the presence of a dangerous substance:

(a) on the person or on, or in, a thing in the person's immediate control; or

(b) on or in a thing, not in the person's immediate control but which the member suspects on reasonable grounds is connected with the person, that is at the place where the detection is being carried out; or

(c) at the place.

(3) In this section:

dangerous substance means any of the following:

(a) a dangerous drug;

(b) a precursor;

(c) a substance prescribed by regulation to be a dangerous substance.

electronic drug detection system, see section 19U of the *Misuse of Drugs Act 1990*.

Division 1C Use of hand held scanners without warrant in certain areas

116K Definitions

In this Division:

approved member means:

(a) a member of or above the rank of Commander; or

(b) a member who is approved, under section 116KN, to be a member who may issue a hand held scanner authority.

hand held scanner means a device that may be passed over or around a person or the person's belongings to detect metal.

hand held scanner authority, see section 116KB(5).

high risk area means an area declared to be a high risk area under section 210 of the *Liquor Act 2019*.

public place means a place the public is entitled to use or that is open to or used by the public, whether on payment of money or otherwise.

public transport facility, see section 116KA.

public transport vehicle means:

(a) a bus being used for a route service, as defined in section 3 of the *Public Transport (Passenger Safety) Act 2008*; or

(b) a ferry that is being used, under contract with the Territory, to carry prospective passengers along a specified route at specific times.

suspected offence area, see section 116KB(1).

use, a hand held scanner in relation to a person, means to pass the hand held scanner in close proximity to the person or the person's belongings.

116KA Meaning of *public transport facility*

A ***public transport facility*** means:

(a) a station, platform, wharf or other structure for the taking on and letting off of passengers of a public transport vehicle together with the following:

(i) car parks and set-down facilities for passengers of a public transport vehicle that makes scheduled stops at the station, platform, wharf or structure;

(ii) any other structure or facility for the use or convenience of passengers of a public transport vehicle that makes scheduled stops at the station, platform, wharf or structure;

(iii) landscaping associated with the station, platform, wharf or structure; or

(b) a bus stop as defined in section 3 of the *Public Transport (Passenger Safety) Act 2008*.

Example of a structure for paragraph (a)

A jetty at which a public transport vehicle makes scheduled stops.

116KB Use of hand held scanner to be authorised

(1) Subject to subsection (3), the Commissioner may, by issuing an authority, authorise the use of a hand held scanner in an area (a ***suspected offence area***) in which the Commissioner suspects, on reasonable grounds, that an offence involving a firearm, controlled weapon or prohibited weapon:

(a) has been committed within the last 12 hours; or

(b) is being committed; or

(c) is likely to be committed within the next 12 hours.

(2) Subject to subsection (3), an approved member may, by issuing an authority, authorise the use of a hand held scanner:

(a) in a high risk area; or

(b) at a public transport facility and on public transport vehicles travelling to and from the facility.

(3) The Commissioner or approved member may issue the authority only if:

(a) any of the following happened in a public place in the affected place in the previous 6 months:

(i) an offence was committed by a person armed with a firearm, controlled weapon or prohibited weapon;

(ii) a violent offence was committed;

(iii) more than one weapon possession offence was committed; and

(b) the Commissioner or approved member considers that the use of hand held scanners is likely to be effective to detect or deter the commission of an offence involving the possession or use of a firearm, controlled weapon or prohibited weapon; and

(c) the Commissioner or approved member has considered:

(i) the effect that the use of hand held scanners may have on lawful activity in the affected place; and

(ii) if the use of hand held scanners has previously been authorised for the affected place – whether the use of the scanners under the authority identified persons carrying restricted weapons.

(4) The Commissioner cannot delegate the Commissioner's powers and functions under this section.

(5) An authority issued under this section is a ***hand held scanner authority***.

(6) In this section:

affected place, in relation to a hand held scanner authority, means the suspected offence area, high risk area or public transport facility and public transport vehicles travelling to and from the facility, for which the authority is proposed to be issued.

controlled weapon, see section 3 of the *Weapons Control Act 2001*.

prohibited weapon, see section 3 of the *Weapons Control Act 2001*.

violent offence means an offence against the Criminal Code involving the use, or threatened use, of violence against a person, the maximum penalty for which is imprisonment for 7 years or more.

weapon possession offence means an offence against section 6(e), 7(1) or 7A of the *Weapons Control Act 2001*.

116KC Form and effect of hand held scanner authority

(1) A hand held scanner authority must specify:

(a) the day and time the authority starts; and

(b) the place for which the authority is issued, as follows:

(i) for a hand held scanner authority issued for a suspected offence area – a description of the area;

(ii) for a hand held scanner authority issued for a high risk area – the name of the high risk area;

(iii) for a hand held scanner authority issued for a public transport facility – the name of the facility or a description of the facility and its location.

(2) The hand held scanner authority has effect for 12 hours after the authority starts.

116KD Authorised use of hand held scanner without warrant in suspected offence area or high risk area

(1) This section applies in relation to a member if a hand held scanner authority is in effect for:

(a) a suspected offence area; or

(b) a high risk area.

(2) Subject to subsection (4), the member may, without a warrant, require a person to stop and submit to the use of a hand held scanner in a public place in the suspected offence area or high risk area, including:

(a) in a public place at a public transport facility in the area; and

(b) on board a public transport vehicle that is in the area.

(3) If the member starts to exercise a power in relation to a person under this section while on board a public transport vehicle travelling in a suspected offence area or high risk area, the member

may continue to exercise the power in relation to the person if the vehicle travels out of the area.

(4) The member may not require a person who is in a private vehicle to stop and submit to the use of a hand held scanner.

116KE Authorised use of hand held scanner without warrant at public transport facility and on board public transport vehicles

(1) This section applies in relation to a member if a hand held scanner authority is in effect for a public transport facility.

(2) Subject to subsection (4), the member may, without a warrant, require a person to stop and submit to the use of a hand held scanner:

(a) in a public place at the public transport facility; or

(b) on board a public transport vehicle while the vehicle is travelling within one scheduled stop in any direction of the public transport facility; or

(c) if the person leaves the public transport vehicle within one scheduled stop of the public transport facility – in a public place at the public transport facility that is at that scheduled stop.

(3) If the member starts to exercise a power in relation to a person under this section while on board a public transport vehicle travelling in the area mentioned in subsection (2)(b), the member may continue to exercise the power in relation to the person if the vehicle travels out of the area.

(4) The member may not require a person who is in a private vehicle to stop and submit to the use of a hand held scanner.

116KF Requirements if hand held scanner indicates metal

(1) If a member uses a hand held scanner in relation to a person under a hand held scanner authority and the scanner indicates that metal is, or is likely to be, present, the member may require the person:

(a) to produce the thing that may be causing the hand held scanner to indicate the presence, or likely presence, of metal; and

(b) to resubmit to the use of a hand held scanner.

(2) To avoid doubt, a member may exercise a power under subsection (1) even if the member is on board a public transport vehicle that travels out of an area mentioned in section 116KD(2)(b) or 116KE(2)(b).

Note for subsection (1)

See section 119AA, and section 19 of the Weapons Control Act 2001, for the power of a member, without warrant, to search a person.

116KG Seizing restricted weapons

(1) Subsection (2) applies in relation to a restricted weapon that is produced by a person in compliance or purported compliance with a requirement under section 116KF.

(2) If a member suspects on reasonable grounds that possession of the restricted weapon is unlawful, the member may seize the weapon and remove it from the place where it is seized.

Note for subsection (2)

See section 116KM for the powers of members in relation to seized restricted weapons.

116KH Safeguards for exercise of powers

(1) This section applies to a member who exercises a power under a hand held scanner authority to require a person to stop and submit, or resubmit, to the use of a hand held scanner.

(2) The member must exercise the power in the least invasive way that is practicable in the circumstances.

(3) If reasonably practicable, the member must be of the same sex as the person.

(4) The member may detain the person for so long as is reasonably necessary to exercise the power.

(5) The member must:

(a) if requested by the person before or at any time during the exercise of the power – inform the person of the member's name, rank and place of duty; and

(b) if requested by the person – give the information mentioned in paragraph (a) in writing; and

(c) produce the member's identification for inspection by the person unless the member is in uniform; and

(d) inform the person that the person is required to allow the member to use a hand held scanner to determine whether the person is carrying a restricted weapon.

116KI Offence of failure to comply with requirement

(1) A person commits an offence if the person:

(a) is required by a member under section 116KD, 116KE or 116KF:

(i) to stop and submit to the use of a hand held scanner; or

(ii) to produce a thing and resubmit to the use of a hand held scanner; and

(b) fails to comply with the requirement.

Maximum penalty: 8 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

(4) A prosecution for an offence against subsection (1) must not be commenced unless the member who gave the requirement:

(a) complied with section 116KH(5); and

(b) warned the person that failure to comply with the requirement is an offence; and

(c) gave the person at least 2 opportunities to comply with the requirement, at least one of which was given after the warning mentioned in paragraph (b).

116KJ Member taken to have reasonable grounds to suspect unlawful possession of weapon

If a person fails to comply with a requirement of a member under section 116KD, 116KE or 116KF without a reasonable excuse, the member is taken to have reasonable grounds to suspect that a restricted weapon, the possession of which is unlawful, is in the possession of the person.

Note for section 116KJ

See section 119AA, and section 19 of the Weapons Control Act 2001, for the power of a member, without warrant, to search a person on the basis of a suspicion mentioned in this section.

116KK Notice of hand held scanner authority to be published

(1) The Commissioner must publish notice of a hand held scanner authority on the Agency's website within 2 months after the authority is issued.

(2) The notice must include the following information:

(a) a description of the suspected offence area, or the name of the high risk area or public transport facility, for which the hand held scanner authority was issued;

(b) the day and time the authority started and ended;

(c) information about:

(i) the offence or offences mentioned in section 116KB(3)(a) that were known to the Commissioner or approved member who issued the authority; and

(ii) the consideration by the Commissioner or approved member of the matters mentioned in section 116KB(3)(b) and (c) in relation to issuing the authority;

(d) for an authority issued for a suspected offence area – the grounds for the Commissioner's suspicion mentioned in section 116KB(1).

116KL Effect of Division on power to search person without warrant

(1) The power conferred by this Division for a member to use a hand held scanner in relation to a person without a warrant does not confer power on a member to search a person without a warrant.

(2) This Division does not affect the power of a member to search a person without a warrant under another Division of this Part or under any other Act.

116KM Destruction of restricted weapons

(1) This section applies in relation to a restricted weapon that is seized from a person:

(a) under section 116KG; or

(b) under section 119AA, or section 19 of the *Weapons Control Act 2001*, during a search that occurs as a result of the person's failure to comply with a requirement of a member under section 116KD, 116KE or 116KF.

(2) A member may destroy the restricted weapon if the member:

(a) has reasonable grounds to suspect that possession of the weapon by the person was unlawful; and

(b) considers that destruction of the weapon is necessary for public safety.

(3) The destruction may occur at a police station or at any other place.

Notes for section 116KM

1 Section 21 of the Weapons Control Act 2001 applies in relation to seized restricted weapons (other than firearms) that are not destroyed under subsection (2).

2 Section 99A(2) and (3) of the Firearms Act 1997 apply in relation to seized firearms that are not destroyed under subsection (2).

116KN Approval of certain members

The Commissioner may approve, in writing, a member of the rank of Senior Sergeant or Superintendent to be a member who may issue a hand held scanner authority.

116KO Annual report on use of hand held scanners

(1) The Commissioner must give an annual report to the Minister on the operation of this Division within 3 months after the end of each financial year.

(2) The report must include the following information:

(a) the number of hand held scanner authorities issued during the financial year to which the annual report relates;

(b) a description of the suspected offence areas, and the names of the high risk areas and public transport facilities, for which the authorities were issued;

(c) information about:

(i) the number of restricted weapons that were detected using hand held scanners under the authorities; and

(ii) the number and type of offences detected as a result of the use of hand held scanners under the authorities.

(3) The annual report must not include any information that identifies, or is likely to lead to the identification of, an individual.

(4) If the annual report is not included in the annual report of the Agency, the Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

116KP Review of operation of Division

(1) The Ombudsman must, as soon as practicable after the second anniversary of the commencement of this Division:

(a) conduct a review of the operation of this Division since the commencement; and

(b) prepare a report of the Ombudsman's findings; and

(c) give the report to the Minister.

(2) In conducting the review, the Ombudsman must consider:

(a) the exercise by members of the powers conferred by this Division; and

(b) whether those powers have been exercised appropriately.

(3) The Ombudsman may request from the Commissioner any information that the Ombudsman reasonably requires to conduct the review.

(4) Subject to subsection (5), the Commissioner must give the Ombudsman any information that the Ombudsman requests as soon as reasonably practicable after the request is made.

(5) The Commissioner may refuse to give certain information to the Ombudsman if the Commissioner believes on reasonable grounds that giving the information could:

(a) prejudice the investigation of a contravention (or possible contravention) of a law in force in the Territory; or

(b) prejudice any proceedings in a court or tribunal; or

(c) enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained; or

(d) endanger a person's life or physical safety; or

(e) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law in force in the Territory.

(6) The Commissioner must give the Ombudsman written reasons for refusing to give any or all of the requested information.

(7) This section has effect despite the operation of any other law of the Territory that prohibits or restricts the disclosure of information.

116KQ Tabling of review report

The Minister must table a copy of a report received under section 116KP in the Legislative Assembly within 6 sitting days after the Minister receives it.

Division 2 Search and entry

117 Search warrants

(1) Where an information on oath is laid before a justice of the peace alleging that there are reasonable grounds for believing that anything connected with an offence may be concealed on the person of, in the clothing that is being worn by or in any property in the immediate control of, a person, the justice of the peace may issue a search warrant authorising a member of the Police Force named in the warrant to search the person of, the clothing that is being worn by or property in the immediate control of, the person and seize any such thing that he may find in the course of the search.

(2) Where an information on oath is laid before a justice of the peace alleging that there are reasonable grounds for believing that there is at a place anything relating to an offence, the justice of the peace may issue a search warrant authorising a member of the Police Force named in the warrant to enter and search the place and seize anything relating to an offence found in the course of the search at the place.

(3) A justice of the peace shall not issue a warrant under subsection (1) or (2) in relation to an information unless:

(a) the information sets out or has attached to it a written statement of the grounds upon which the issue of the warrant is sought;

(b) the informant or some other person has given to the justice of the peace, either orally or by affidavit, such further information, if any, as the justice of the peace requires concerning the grounds on which the issue of the warrant is being sought; and

(c) the justice of the peace is satisfied that there are reasonable grounds for issuing the warrant.

(4) Where a justice of the peace issues a warrant under subsection (1) or (2) he shall record in writing the grounds upon which he relied to justify the issue of the warrant.

(5) There shall be stated in the warrant issued under this section the following particulars:

(a) the purpose for which the search or entry is authorised;

(b) a description of the nature of the things authorised to be seized; and

(c) the date, not being a date later than 14 days after the date of issue of the warrant, upon which the warrant ceases to have effect.

(6) A member may, at any time before a warrant issued under subsection (1) or (2) is executed, make application to a justice of the peace to withdraw the warrant.

118 Search warrant may be issued by telephone

(1) Where it is impracticable for a member of the Police Force to make application in person to a justice of the peace for a search warrant under this Act, the member may make application for a search warrant to a justice of the peace by telephone in accordance with this section.

(2) Before making application to a justice of the peace by telephone under subsection (1), a member shall prepare an information on oath of a kind referred to in section 117(1) or (2) and, where required by the justice of the peace, an affidavit setting out the grounds on which the issue of the warrant is sought, but may, if it is necessary to do so, make the application before the information and the affidavit, if required, have been made on oath.

(3) Where a justice of the peace is satisfied, upon application made under subsection (1), that there are reasonable grounds for issuing a warrant, the justice of the peace may issue such a search warrant as he could issue under section 117 if the application had been made to him in accordance with that section.

(4) Where a justice of the peace issues a warrant under subsection (3):

(a) the justice of the peace shall complete and sign the warrant; and

(b) the justice of the peace shall inform the member by telephone of the terms of the warrant signed by him, and record on the warrant his reasons for issuing it; and

(c) the member shall complete in duplicate a form of warrant in the terms furnished to him by the justice of the peace and write on it the name of the justice of the peace who issued the warrant and the date on which and time at which it was issued.

(5) Where a justice of the peace issues a warrant under subsection (3), the member shall, not later than the day next following the date of the expiry of the warrant, forward to the justice of the peace who issued the warrant the form of warrant prepared by the member and the information and affidavit, if any, duly made in connection with the issue of the warrant.

(6) Upon receipt of the documents referred to in subsection (5), the justice of the peace shall compare the copy of the form of warrant forwarded to him with the warrant signed by him and, if he is satisfied that they are in substance identical, he shall note this fact on the warrant signed by him and forward the warrant together with the copy of the form of warrant and the information and affidavit, if any, to the Commissioner of Police or to such member of the Police Force as may be specified by the Commissioner.

(7) A form of warrant completed by a member in accordance with subsection (4) is, if it is in accordance with the terms of the warrant signed by the justice of the peace, authority for any entry or seizure that it authorises.

(8) Where it is necessary for a court, in any proceeding, to be satisfied that any entry or seizure was authorised by a warrant issued by a justice of the peace in accordance with this section, and the warrant signed by the justice of the peace in accordance with this section is not produced in evidence, the court shall assume, unless the contrary is proved, that the entry or seizure was not authorised by such warrant.

(9) Where an application has been made to a justice of the peace pursuant to subsection (1) and the application has been refused by the justice of the peace, subject to subsection (10), neither the member of the Police Force who made the application nor any other member who has any cause to suspect that an application

has been made by another member under subsection (1) in respect of the same matter, shall make a further application to any justice of the peace pursuant to subsection (1) in respect of that matter.

(10) Where an application made pursuant to subsection (1) has been made to a justice of the peace and the application has been refused by that justice of the peace a further application may be made to a justice of the peace where a member satisfies a justice of the peace that the member has, since the time of the original application, received further information or evidence which is material to an application under subsection (1).

118A Seizure authorised under search warrant

A member of the Police Force who executes a warrant issued under section 117 or 118 may, in addition to seizing anything of a nature described in the warrant, seize any other thing:

(a) found in the course of executing the warrant; and

(b) that the member believes on reasonable grounds is connected with any offence.

119 Urgent searches without warrant

(1) A member may, in circumstances of such seriousness and urgency as to require and justify immediate search or entry without the authority of an order of a court or of a warrant issued under this Part, without warrant:

(a) search the person of, the clothing that is being worn by and property in the immediate control of, a person suspected on reasonable grounds by the member to be carrying anything connected with an offence; or

(b) enter a place at which the member believes, on reasonable grounds, that anything connected with an offence is situated and search the place.

(1A) A member who exercises a power under subsection (1) may seize anything found in the course of the search if the member believes on reasonable grounds it is necessary to do so because the thing:

(a) is connected with an offence; or

(b) may significantly increase the risk to the health or safety of a particular person or the public.

(2) A member who believes on reasonable grounds that a person is carrying a restricted weapon may, without warrant, search the person for the weapon and seize any restricted weapon found on the person.

(3) A member who believes on reasonable grounds that a restricted weapon is being carried in an aircraft, ship, train or vehicle may, without warrant, enter the aircraft, ship, train or vehicle and seize any restricted weapon found in it.

(3A) The power of seizure under this section includes the power to:

(a) remove the thing that is seized from the place where it is found; and

(b) guard the thing that is seized at the place where it is found.

(4) The powers given by this section are in addition to and do not derogate from any other powers of a member.

119AA Search without warrant for explosive, restricted weapon or ammunition

(1) This section applies if a member suspects on reasonable grounds that an explosive, a restricted weapon or ammunition, the possession of which is unlawful:

(a) is in the possession or control of a person in a public place; or

(b) is being carried in an aircraft, ship, train or vehicle; or

(c) is at any other place.

(2) The member may, without warrant:

(a) search the person, clothing worn by the person and property in the person's immediate control; or

(b) enter the aircraft, ship, train, vehicle or other place and search the place and any person found at the place, clothing worn by the person and property in the person's immediate control.

(3) The member may seize an explosive, a restricted weapon or ammunition found during the search.

(4) The power of seizure under subsection (3) includes the power to:

(a) remove the thing that is seized from the place where it is found; and

(b) guard the thing that is seized at the place where it is found.

(5) The powers given by this section are in addition to and do not derogate from any other powers of a member.

119A Powers incidental to search and entry powers

(1) This section applies if a member is authorised:

(a) to search a person, clothing being worn by a person or property in the immediate control of a person under:

(i) a warrant issued under section 117(1); or

(ii) a form of warrant completed by the member in accordance with section 118(4); or

(iii) section 119(1)(a) or (2); or

(iv) section 119AA(2)(a); or

(b) to enter a place under:

(i) a warrant issued under section 117(2); or

(ii) a form of warrant completed by the member in accordance with section 118(4); or

(iii) section 119(1)(b) or (3); or

(iv) section 119AA(2)(b).

(2) The member may exercise the power with the assistance, and using the force, that is necessary and reasonable in the circumstances.

(3) For exercising the power mentioned in subsection (1)(a), the member may:

(a) stop the person or an aircraft, ship, train or vehicle in which the member reasonably believes the person may be found; and

(b) detain the aircraft, ship, train or vehicle, and any persons found in or on it or who enter it while the search is in progress, for as long as reasonably required for the exercise of the power.

(4) For exercising the power mentioned in subsection (1)(b), the member may:

(a) if the place to which the power relates is an aircraft, ship, train or vehicle – stop and detain the aircraft, ship, train or vehicle for as long as reasonably required for the exercise of the power; and

(b) detain any persons found in or on the place, or who enter it while the search is in progress, for as long as reasonably required for the exercise of the power.

(5) For section 112(1) of the Criminal Code, a person detained under subsection (3)(b) or (4)(b) is in the lawful custody of the member while so detained.

120 Power of police to enter place used for entertainment

(1) A member of the Police Force may, without warrant, enter land or premises:

(a) being used for any show, exhibition, sport, games, contest or entertainment and to which the public is admitted (whether admission thereto is obtained by payment of money or otherwise); or

(b) being used for the purposes of any form of racing.

(2) Where a member of the Police Force has entered land or premises pursuant to subsection (1) he may order any person who is a reputed thief or who is disorderly or indecent or who is soliciting for the purposes of prostitution to leave the land or premises.

(3) If any such person refuses or fails to leave the land or premises on being ordered by a member of the Police Force to do so, he commits an offence.

Maximum penalty: 1.7 penalty units.

(4) For the purposes of subsection (2), a reputed thief is a person who has on at least 2 occasions in the period of 5 years immediately preceding the occasion of the exercise of the powers given to the member by this section, been found guilty of an offence described in Part VII of the Criminal Code, Part IV of the *Criminal Law Consolidation Act 1876*, as in force at any time during that period, or any similar offence in any other part of Australia.

Division 2A Special provisions about dangerous drugs

120A Definitions

In this Division:

dangerous drug means:

(a) a dangerous drug as defined in section 3(1) of the *Misuse of Drugs Act 1990*; or

(b) a prohibited substance as defined in section 12 of the *Medicines, Poisons and Therapeutic Goods Act 2012*; or

(c) kava.

drug manufacturing equipment means anything that may be used in the manufacture of a dangerous drug.

kava means kava as defined in section 3 of the *Kava Management Act 1998*.

manufacture, for a dangerous drug, see section 3(1) of the *Misuse of Drugs Act 1990*.

public place includes the following:

(a) every place to which free access is permitted to the public with the express or tacit consent of the owner or occupier of the place;

(b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only;

(c) every road, street, footway, court, alley or thoroughfare that the public are allowed to use, even if the road, street, footway, court, alley or thoroughfare is on private property;

(d) every school, college, university or similar institution providing or offering to provide courses of instruction.

120B Search warrants

(1) Where it is made to appear to a justice of the peace, by application on oath, that there are reasonable grounds for believing:

(a) that there is at a place a dangerous drug, precursor or drug manufacturing equipment;

(b) that a dangerous drug, precursor or drug manufacturing equipment may be concealed on a person or on or in property in the immediate control of a person; or

(ba) that a dangerous drug, precursor or drug manufacturing equipment may, within the next following 72 hours:

(i) be brought on or into a place; or

(ii) be concealed on a person or on or in property in the immediate control of a person,

the justice of the peace may issue a warrant authorising a member of the Police Force named in the warrant, with such assistance as the member thinks necessary, to search:

(c) in a case referred to in paragraph (a) or (ba)(i):

(i) the place;

(ii) any person found at the place; and

(iii) any person who enters the place while the search is in progress; and

(d) in a case referred to in paragraph (b) or (ba)(ii), or in respect of a person referred to in paragraph (c)(ii) or (iii):

(i) the person;

(ii) the clothing worn by the person; or

(iii) the property in the immediate control of the person.

(2) A warrant issued under subsection (1)(a) or (ba)(i) authorises the member to whom it is issued to direct a person referred to in subsection (1)(c)(ii) or (iii) to remain at the place for as long as is reasonably required for the purposes of the search of the place and of the person.

(3) Section 112(1) of the Criminal Code applies to and in relation to a person directed under subsection (2) as if the person were in the lawful custody of the member while so directed.

(4) Under this section:

(a) an application for a warrant and a submission concerning an application may be made in whole or in part;

(b) information concerning an application may be furnished in whole or in part; and

(c) an oath may be administered,

by telephone, telex, radio or other similar means.

(5) A warrant issued under this section shall remain in force for such period as the justice of the peace issuing it specifies in the warrant.

(6) Where a warrant is issued as the result of an action taken under or in pursuance of subsection (4), the justice of the peace issuing it shall send it to the Commissioner within 7 days after it is issued.

(7) Where it is necessary for a member to satisfy a person that a warrant under this section was issued authorising the member to conduct a search and, for reasonable cause, the member cannot, at the time of the search, produce the warrant, the member may produce a copy of the warrant completed and endorsed in accordance with subsection (8) and the production of the copy shall be deemed to be a production of the warrant.

(8) For the purposes of subsection (7), a member shall:

(a) complete a form of warrant substantially in the terms of the warrant issued; and

(b) write on that form of warrant a statement that a warrant in those terms was issued giving:

(i) the name of the justice of the peace who issued the warrant; and

(ii) the date, time and place on and at which it was issued.

120BA Seizure

A member of the Police Force may seize:

(a) anything found in the possession of a person or as the result of a search, being a thing that the member suspects, on reasonable grounds, is a dangerous drug, precursor or drug manufacturing equipment;

(b) money, a valuable security or other thing:

(i) found in the possession of a person; or

(ii) found as the result of a search,

being money, a valuable security or thing that the member suspects, on reasonable grounds, was received or acquired by a person directly or indirectly as or from the proceeds or

part of the proceeds of the supply of a dangerous drug, precursor or drug manufacturing equipment;

(c) an acknowledgement, note or other thing:

(i) found in the possession of a person; or

(ii) found as a result of a search,

being an acknowledgement, note or thing that the member suspects, on reasonable grounds:

(iii) entitles a person to receive; or

(iv) is evidence that a person is entitled to receive,

money or money's worth that is the proceeds or part of the proceeds of the supply of a dangerous drug, precursor or drug manufacturing equipment;

(d) a thing found in the possession of a person as the result of a search, being a thing that the member suspects, on reasonable grounds, is evidence of the commission of an offence against the *Misuse of Drugs Act 1990*;

(e) where a person is apprehended for an offence against the *Misuse of Drugs Act 1990*, an article or thing:

(i) found in the possession of the person; or

(ii) found as the result of a search,

being an article or thing that is of a type used in the manufacture, production, cultivation, use or administration of a dangerous drug, precursor or drug manufacturing equipment; or

(f) an aircraft, ship, train or vehicle which a member believes on reasonable grounds is being or has been used or is intended to be used in the commission of an offence against the *Misuse of Drugs Act 1990*.

120BB Seizure authorised under search warrant

A member of the Police Force who executes a warrant issued under section 120B may, in addition to seizing anything mentioned in section 120BA, seize any other thing:

(a) found in the course of executing the warrant; and

(b) that the member believes on reasonable grounds is connected with any offence.

120C Searching without warrant

A member of the Police Force may, without warrant, stop, detain and search the following:

(a) an aircraft, ship, train or vehicle if the member has reasonable grounds to suspect that a dangerous drug, precursor or drug manufacturing equipment may be found on or in it;

(b) any person found on or in an aircraft, ship, train or vehicle being searched under paragraph (a);

(c) a person in a public place if the member has reasonable grounds to suspect that the person has in his or her possession, or is in any way conveying, a dangerous drug, precursor or drug manufacturing equipment.

120D Use of reasonable force

The power to search conferred by section 120C or by a warrant issued under section 120B authorises a member:

(a) to use such reasonable force as is necessary to break into, enter and search the place to be searched;

(b) to use such reasonable force as is necessary to open any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found at the place; and

(c) to use such reasonable force as is necessary to carry out a search of a person authorised by or under this Division.

120E Search of females

(1) A search of a female under this Division shall be carried out only:

(a) by a female member of the Police Force;

(b) by a medical practitioner authorised by a member to carry out the search; or

(c) where there is neither a female member nor a medical practitioner available – by a female person authorised by a member to carry out the search.

(2) Where a medical practitioner or a female person is authorised under subsection (1) to carry out a search of a female, the medical

practitioner or female person carrying out the search has, for the purposes of that search, the same powers, and is subject to the same protection, as a member.

Division 3 Arrest

121 Arrest warrants

(1) Where an information on oath is laid before a justice of the peace alleging that there are reasonable grounds for believing that a person has committed an offence:

(a) the justice of the peace may, subject to subsection (3), issue a warrant for the arrest of the person and for bringing him before a court specified in the warrant to answer to the information and to be further dealt with according to law; or

(b) the justice of the peace may issue a summons requiring the person to appear before a court to answer to the information.

(2) At any time after a justice of the peace has issued a summons requiring a person to appear before a court to answer to an information under subsection (1) and before the summons has been duly served on the person, a justice of the peace may, subject to subsection (3), issue a warrant for the arrest of the person and for bringing him before a court specified in the warrant to answer to the information and to be further dealt with according to law.

(3) A justice of the peace shall not issue a warrant under subsection (1) or (2) in relation to an information unless:

(a) an affidavit has been furnished to the justice of the peace setting out the grounds on which the issue of the warrant is being sought;

(b) the informant or some other person has furnished to the justice of the peace such further information, if any, as the justice of the peace requires concerning the grounds on which the issue of the warrant is being sought; and

(c) the justice of the peace is satisfied that there are reasonable grounds for issuing the warrant.

(4) Where an informant furnishes information to a justice of the peace for the purposes of subsection (3)(b), he shall furnish the information on oath.

(5) Where a justice of the peace issues a warrant under subsection (1), he shall state on the affidavit furnished to him in accordance with

subsection (3) which of the grounds, if any, specified in that affidavit he has relied on to justify the issue of the warrant and particulars of any other grounds relied on by him to justify the issue of the warrant.

(6) Nothing in this section affects the application of section 19A of the *Service and Execution of Process Act 1992* of the Commonwealth.

(7) A member may, at any time before a warrant issued under subsection (1) is executed, make application to a justice of the peace to withdraw the warrant.

(8) Where a warrant issued under subsection (1) has been executed the person arrested shall be charged with the offence specified in the warrant.

122 Arrest warrant may be issued by telephone

(1) Where it is impracticable for a member of the Police Force to make application to a justice of the peace for an arrest warrant under this Act, the member may make application for an arrest warrant to a justice of the peace by telephone in accordance with this section.

(2) Before making application to a justice of the peace by telephone under subsection (1), the member shall prepare an information of a kind referred to in section 121 and, where required by the justice of the peace, an affidavit setting out the grounds on which the issue of the warrant is sought, but may, if it is necessary to do so, make the application before the information and the affidavit, if required, have been made on oath.

(3) Where a justice of the peace is, upon application made under subsection (1), satisfied that there are reasonable grounds for issuing a warrant, the justice of the peace may issue such an arrest warrant as he could issue under section 121 if the application had been made to him in accordance with that section.

(4) Where a justice of the peace issues a warrant under subsection (3):

(a) the justice of the peace shall complete and sign the warrant; and

(b) the justice of the peace shall inform the member by telephone of the terms of the warrant signed by him, and record on the warrant his reasons for issuing it; and

(c) the member shall complete in duplicate a form of warrant in the terms furnished to him by the justice of the peace and write on it the name of the justice of the peace who issued the warrant and the date on which and time at which it was issued.

(5) Where a justice of the peace issues a warrant under subsection (3), the member shall, not later than the day next following the date of the execution of the warrant, forward to the justice of the peace who issued the warrant the form of warrant prepared by the member and the information and affidavit, if any, duly made in connection with the issue of the warrant.

(6) Upon receipt of the documents referred to in subsection (5), the justice of the peace shall compare the copy of the form of warrant forwarded to him with the warrant signed by him and, if he is satisfied that they are in substance identical, he shall note this fact on the warrant signed by him and forward the warrant together with the copy of the form of warrant and the information and affidavit, if any, to the Commissioner of Police or to such member of the Police Force as may be specified by the Commissioner.

(7) A form of warrant completed by a member in accordance with subsection (4) is, if it is in accordance with the terms of the warrant signed by the justice of the peace, authority for any arrest that it authorises.

(8) Where it is necessary for a court in any proceeding to be satisfied that an arrest was authorised by a warrant issued by a justice of the peace in accordance with this section, and the warrant signed by the justice of the peace in accordance with this section is not produced in evidence, the court shall assume, unless the contrary is proved, that the arrest was not authorised by such warrant.

(9) Where an application has been made to a justice of the peace pursuant to subsection (1) and the application has been refused by the justice of the peace, subject to subsection (10), neither the member of the Police Force who made the application nor any other member who has any cause to suspect that an application has been made by another member under subsection (1) in respect of the same matter, shall make a further application to any justice of the peace pursuant to subsection (1) in respect of that matter.

(10) Where an application made pursuant to subsection (1) has been made to a justice of the peace and the application has been refused by that justice of the peace a further application may be made to a justice of the peace where a member satisfies a justice of the peace that the member has, since the time of the original application, received further information or evidence which is material to an

application under subsection (1).

123 Arrest without warrant by members of Police Force

A member of the Police Force may, without warrant, arrest and take into custody any person where he believes on reasonable grounds that the person has committed, is committing or is about to commit an offence.

Note for section 123

If the person arrested is a youth within the meaning of the Youth Justice Act 2005, sections 16 and 22 of that Act apply.

124 Arrest of person where warrant issued

(1) A member of the Police Force may, without warrant, arrest and take into custody any person who the member has reasonable cause to believe is a person for whose apprehension or committal a warrant has been issued by any Supreme Court Judge, Local Court Judge or justice of the peace.

(2) Where a member arrests a person under subsection (1), the member shall, as soon as reasonably practicable thereafter, produce or cause to be produced to the person the warrant authorising his apprehension or committal, where the person has been apprehended in pursuance of a warrant authorising his apprehension, and the person shall be charged with the offence specified in the warrant.

125 Power to arrest interstate offenders

(1) A member of the Police Force may, without warrant, arrest and take into custody a person if the member believes on reasonable grounds that the person has, in a State or another Territory, committed an offence against the law of that State or Territory and there is under the law of the Northern Territory a similar offence that is punishable by imprisonment for a period exceeding 6 months.

(3) The court before whom a person arrested under subsection (1) is brought may:

(a) discharge the person;

(b) grant the person bail in accordance with the *Bail Act 1982* as if the person had been charged with the similar offence mentioned in subsection (1); or

(c) authorise the detention of the person for a reasonable time pending the endorsement, under the *Service and Execution of Process Act 1992* of the Commonwealth, of a warrant issued in the State or Territory in which the offence was committed.

126 Power to enter and arrest under warrant

For the purpose of arresting a person, a member of the Police Force may enter a place if:

(a) the member has the power to arrest the person under a warrant; and

(b) the member believes on reasonable grounds that the person is at the place.

126A Power to enter and arrest without warrant

For the purpose of arresting a person, a member of the Police Force may enter a place, without a warrant, if the member believes on reasonable grounds that:

(a) the person is at the place; and

(b) the person has committed an offence punishable by a term of imprisonment exceeding 6 months.

126B Power to enter and remain to protect a person

(1) For the purpose of protecting a person at a place, a member of the Police Force may enter the place if the member believes on reasonable grounds that:

(a) the person has suffered, is suffering or is in imminent danger of suffering personal injury at the hands of another person; or

(b) another person at the place has contravened, is contravening or is about to contravene an order under the *Domestic and Family Violence Act 2007*.

(2) For the purpose of protecting a child at a place, a member of the Police Force may enter the place if the member believes on reasonable grounds that there is a serious and imminent risk to the welfare of the child.

(3) No warrant is required to enter a place under this section.

(4) The member may remain at the place entered under this section for the time needed to take any reasonable action the member considers necessary to do any of the following:

(a) verify the grounds of the member's belief;

(b) ensure that, in the member's opinion, no one at the place is in danger or at risk;

(c) prevent a breach of the peace or a contravention of the order at the place;

(d) assist, or arrange assistance for, any injured person at the place.

126C Power to search and seize restricted weapons

(1) A member who enters a place under section 126B may search the place for restricted weapons if the member believes on reasonable grounds that:

(a) a restricted weapon is located at the place; and

(b) leaving the restricted weapon at the place could put a person in imminent danger of suffering personal injury or an aggravation of personal injury already suffered.

(2) The member may seize any restricted weapon or other article capable of being used to inflict injury on a person found as a result of the search conducted under subsection (1).

(3) Any firearm seized under subsection (2) must be dealt with in accordance with the *Firearms Act 1997*.

(4) The power to search under subsection (1) authorises the member to use such reasonable force as is necessary to:

(a) open any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found at the place; and

(b) carry out a search of a person at the place.

(5) No warrant is required to search a place or seize a restricted weapon or other article under this section.

126D Ancillary powers

(1) For sections 126, 126A (subject to any limits in a warrant) and 126B, the member of the Police Force may:

(a) enter the place at any time of the day or night; and

(b) use such reasonable force as is necessary to enter the place; and

(c) obtain the assistance that the member thinks necessary to enter the place.

(2) Sections 126, 126A and 126B do not limit or prevent the exercise of any other power to enter a place, whether with or without a warrant, that a member has under another law of the Territory.

127 Persons to be informed of reason for arrest

(1) A member of the Police Force who arrests a person for an offence shall inform the person, at the time of the arrest or as soon as practicable thereafter, of the offence for which he is arrested.

(2) A member who arrests a person for an offence shall be taken to have complied with subsection (1) if he informs the person of the substance of the offence for which he is arrested, and it is not necessary for him to do so in language of a precise or technical nature.

(3) Subsection (1) does not apply to or in relation to the arrest of a person:

(a) if that person ought, by reason of the circumstances in which he is arrested, to know the substance of the offence for which he is arrested; or

(b) if the person arrested makes it impracticable by reason of his actions, for the member effecting the arrest to inform him of the offence for which he is arrested.

Division 4 Apprehension without arrest

127A Intoxicated person

For this Division, a person is ***intoxicated*** if:

(a) the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and

(b) it is reasonable in the circumstances to believe the impairment results from the consumption or use of alcohol or a drug.

128 Circumstances in which a person may be apprehended

(1) A member may, without warrant, apprehend a person and take the person into custody if the member has reasonable grounds for believing:

(a) the person is intoxicated; and

(b) the person is in a public place or trespassing on private property; and

(c) because of the person's intoxication, the person:

(i) is unable to adequately care for himself or herself and it is not practicable at that time for the person to be cared for by someone else; or

(ii) may cause harm to himself or herself or someone else; or

(iii) may intimidate, alarm or cause substantial annoyance to people; or

(iv) is likely to commit an offence.

(2) For the purposes of carrying out his duties under subsection (1), a member may, without warrant, enter upon private property.

(2A) A member who takes a person into custody under subsection (1), or any other member, must establish the person's identity by taking and recording the person's name and other information relevant to the person's identification, including photographs, fingerprints and other biometric identifiers.

(3) A member of the Police Force who takes a person into custody under subsection (1) may:

(a) search or cause to be searched that person; and

(b) remove or cause to be removed from that person for safe keeping, until the person is released from custody, any money or valuables that are found on or about that person and any item on or about that person that is likely to cause harm to that person or any other person or that could be used by that person or any other person to cause harm to himself or another.

(4) For the purposes of subsection (3), the person of a woman shall not be searched except by a woman.

(5) All money or valuables taken from a person under subsection (3) shall be recorded in a register kept for that purpose and shall be returned to that person on receipt of a signature or other mark made by that person in the register.

(6) A member may use the force that is reasonably necessary to exercise a power under this section.

129 Period of apprehension

(1) Subject to this Division, a person who has been apprehended and taken into custody under section 128 shall be held in the custody of a member of the Police Force, but only for so long as it reasonably appears to the member of the Police Force in whose custody he is held that the person remains intoxicated.

(2) Subject to this Division, where it reasonably appears to a member of the Police Force in whose custody a person is held at the time under this section that the person is no longer intoxicated, the member shall, without any further or other authority than this subsection, release that person or cause him to be released from custody.

(3) A person who has been taken into custody under section 128 and who is in custody after midnight and before half past 7 o'clock in the morning on that day, may be held in custody until half past 7 o'clock in the morning on that day, notwithstanding that the person is no longer intoxicated.

130 Protection of apprehended person

(1) A person in custody after apprehension under section 128:

(a) shall not be charged with an offence; and

(b) shall not be questioned by a member in relation to an offence.

(2) Where a person is questioned in contravention of subsection (1)(b) any answers which he may give to any such question shall be inadmissible in evidence against him in any proceedings.

130A Evidence for alcohol-related matters

(1) If a member reasonably believes a person in custody under this Division is intoxicated with alcohol, the member may do any of the following:

(a) require the person to submit to a breath test to determine whether there is alcohol in the person's breath;

(b) require the person to provide a sample of the person's breath for a breath analysis;

(c) take and record the person's name and other information relevant to the person's identification, including photographs, fingerprints and other biometric identifiers.

(2) A breath analysis must be carried out:

(a) by a person authorised to carry out a breath analysis under the *Traffic Act 1987* (an ***authorised officer***); and

(b) using a prescribed breath analysis instrument.

(4) A certificate signed by the authorised officer who carried out a breath test or breath analysis on a person is evidence that there was present in the person's breath the concentration of alcohol stated in the certificate.

(5) A certificate signed by the member who records information about a person's identity is evidence of the matters stated in the certificate.

(6) In this section:

breath analysis, see section 3(1) of the *Traffic Act 1987*.

breath test, see section 3(1) of the *Traffic Act 1987*.

prescribed breath analysis instrument, see section 3(1) of the *Traffic Act 1987*.

131 Release

(1) The member of the Police Force in whose custody a person is held under this Division may, at any time, without any further or other authority than this subsection, release that person or cause him to be released into the care of a person who the member reasonably believes is a person capable of taking adequate care of that person.

(2) A person in custody shall not be released under subsection (1) into the care of another person if the person in custody objects to being released into the care of that person.

132 Continued detention of person taken into custody under section 128

(1) In this section:

health practitioner means one of the following who is available to attend to a person held in custody:

(a) a medical practitioner;

(b) a person registered under the Health Practitioner Regulation National Law (other than as a student) to practise in:

(i) the Aboriginal and Torres Strait Islander health practice profession; or

(ii) the nursing profession.

member of the Police Force in whose custody a person is held, in relation to a person being held in custody in a locality that is outside Alice Springs, Darwin, Katherine or Tennant Creek, means the member of the Police Force on duty in the locality who holds the highest rank.

(2) If:

(a) a person who was taken into custody under section 128 is held in custody for 6 hours; and

(b) after the 6 hours has expired, it reasonably appears to the member of the Police Force in whose custody the person is held that the person is still intoxicated with alcohol or a drug,

the member must:

(c) notify a member of the Police Force of or above the rank of superintendent that it reasonably appears to the member that the person is still intoxicated with alcohol or a drug;

(d) if instructed by the member of the Police Force of or above the rank of superintendent to do so – continue, subject to subsection (4), to hold the person in custody until:

(i) it reasonably appears to the member of the Police Force in whose custody the person is held that the person is no longer intoxicated; or

(ii) the expiry of 10 hours after the person was taken into custody under section 128,

whichever first occurs;

(e) make a record in the custody log (however described) of the time at which and manner in which he or she notified the superintendent or other member, the content of the notification and the instruction the superintendent or other member gave to him or her; and

(f) if the member continues to hold the person in custody – arrange for a health practitioner to examine the person as soon as practicable.

(3) Notification under subsection (2)(c) may be:

(a) made orally, whether in person or by radio, telephone or any other available means of communication; or

(b) made in writing by facsimile transmission or any other available electronic means of communication.

(4) On the person who continues to be held in custody under subsection (2) being examined by a health practitioner:

(a) if the health practitioner is of the opinion that the condition of the person is such that the person requires medical treatment – the person may be released from custody into the care of the health practitioner; or

(b) if the health practitioner is of the opinion that the condition of the person is such that the person does not require medical treatment – the member of the Police Force in whose custody the person is held must continue to hold the person in custody until the expiry of the period the member must hold the person in custody under subsection (2)(d).

133 Application to member for release

(1) A person apprehended under section 128 may, at any time after such apprehension, request a member to take him before a court of competent jurisdiction in order that the person may make an application to the court for his release.

(2) Where a request is made of a member under subsection (1) he shall, if it is reasonably practicable for the person to be brought before the court forthwith, bring the person, or cause the person to be brought, before the court forthwith unless sooner released.

Note for subsection (2)

Section 49E(8) of the Evidence Act 1939 provides that a requirement that a person be before a court is taken to be satisfied if the person is before the court by way of a communication link in accordance with Part 5, Division 2 of that Act.

Division 4AA Taking person into custody for infringement notice offence

133AA Definition

In this Division:

infringement notice offence means an offence under this Act or another Act for which an infringement notice may be served and which is prescribed for this Division by regulation.

133AB Taking person into custody for infringement notice offence

(1) This section applies if:

(a) a member of the Police Force has arrested a person without a warrant under section 123; and

(b) the person was arrested because the member believed on reasonable grounds that the person had committed, was committing or was about to commit, an offence that is an infringement notice offence.

(2) The member may take the person into custody and:

(a) hold the person for a period up to 4 hours; or

(b) if the person is intoxicated – hold the person for a period longer than 4 hours until the member believes on reasonable grounds that the person is no longer intoxicated.

(3) The member, or any other member, on the expiry of the period mentioned in subsection (2), may:

(a) release the person unconditionally; or

(b) release the person and issue the person with an infringement notice in relation to the infringement notice offence; or

(c) release the person on bail; or

(d) under section 137, bring the person before a justice of the peace or court for the infringement notice offence or another offence allegedly committed by the person.

(4) For deciding how to deal with the person under subsection (3), the member, or another member, may question the person about the infringement notice offence, or any other offence in relation to which the person is of interest to police.

133AC When person taken into custody

(1) A member of the Police Force who takes a person into custody under section 133AB, or another member, must establish the person's identity by taking and recording the person's name and further information relevant to the person's identification, including photographs, fingerprints and other biometric identifiers.

(2) A member who takes a person into custody under section 133AB may:

(a) search the person or cause the person to be searched; and

(b) remove, or cause to be removed, from the person for safekeeping:

(i) any money or valuables; and

(ii) any item that is likely to cause harm to the person or another person; and

(iii) any item that could be used by the person or another person to cause harm to the person or another person.

(3) Any item removed from a person under subsection (2)(b):

(a) must be recorded in a register kept for that purpose; and

(b) must be returned to the person on the person being released from custody.

(4) Subsection (3)(b) does not apply if possession of the item by the person would be unlawful.

(5) The person must acknowledge receipt of any items returned under subsection (3)(b) by signing or making a mark in the register.

(6) For subsection (2)(a), a search of a female may only be carried out:

(a) by a female member of the Police Force; or

(b) if a female member of the Police Force is not available, a female authorised by a member to carry out the search.

(7) A member, or a person authorised under subsection (6)(b), may use the force that is reasonably necessary to exercise a power under this section.

(8) A person authorised under subsection (6)(b) to carry out a search of a female has, for that search, the same powers and protections as a member.

Division 4A Notice to appear before Local Court

133A Definitions

In this Division:

notice to appear means a notice issued under section 133B.

person does not include a youth within the meaning of the *Youth Justice Act 2005*.

133B Member may issue and serve notice to appear

(1) A member who believes on reasonable grounds that a person has committed an offence may issue a notice requiring the person to appear before the Local Court in respect of the offence.

(2) The member must issue the notice to appear in triplicate and serve one copy personally on the person required to appear before the Local Court.

133C Form of notice to appear

(1) A notice to appear is to:

(a) be directed to the person alleged to have committed the offence; and

(b) state the substance of the offence the person is alleged to have committed; and

(c) require the person to appear before the Local Court at a specified time and place in respect of the offence; and

(d) state, if the person does not appear before the Local Court as required by the notice, the consequences include that the Local Court may issue a warrant for the person's arrest or proceed ex parte to a hearing of the offence and adjudicate on the offence as fully and effectually, to all intents and purposes,

as if the person had personally appeared as required by the notice; and

(e) be signed by the member who issued the notice.

(2) The statement in the notice to appear of the substance of the offence need provide only general particulars of the offence, including:

(a) the nature of the offence; and

(b) the time and place it is alleged the offence was committed.

(3) The time specified in the notice to appear as the time when the person is required to appear before the Local Court is to be not less than 7 days after the notice is served.

(4) The place specified in the notice to appear as the place where the person is to appear before the Local Court is to be a place where the Local Court will be sitting at the time specified in the notice.

133D Notice to appear to be filed

After a person has been served with a notice to appear, and as soon as practicable before the date on which the person is required to appear before the Local Court, one copy of the notice is to be filed with the Registrar of the Local Court at the place where the person is required to appear.

133E Person to be given complaint or information

A person who appears before the Local Court as required by a notice to appear is to be given a complaint or information (as the case requires) in accordance with section 190(1) of the *Local Court (Criminal Procedure) Act 1928*.

Division 5 Furnishing of name and address

134 Identification of person to assist with inquiries

(1) This section applies in relation to a person if a member believes on reasonable grounds that the person may be able to assist the member in the member's inquiries in connection with an offence that has been, may have been or may be committed.

(2) If the person's name or address is unknown to the member, the member may require the person to do either or both of the following:

(a) state the person's name and the address of the person's usual place of residence or work;

(b) produce evidence of the person's identity.

(3) When giving a requirement under subsection (2), the member must warn the person that it is an offence to contravene the requirement unless the person has a reasonable excuse.

(4) A person commits an offence if the person contravenes a requirement given under subsection (2).

Maximum penalty: 4 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

(7) Subsection (4) does not apply to a person who has been given a requirement under subsection (2) if the member who gave the requirement did not, at the time the requirement was given, warn the person in accordance with subsection (3).

(8) A person commits an offence if:

(a) the person gives a member information or produces evidence required under subsection (2); and

(b) the information or evidence is false or misleading in a material particular.

Maximum penalty: 4 penalty units.

(9) An offence against subsection (8) is an offence of strict liability.

134A Identification of person on suspicion of contravention

(1) This section applies in relation to a person if a member suspects on reasonable grounds that the person has contravened, is contravening, or is about to contravene section 171(1) of the *Liquor Act 2019*.

(2) If the person's name or address is unknown to the member, the member may require the person to do either or both of the following:

(a) state the person's name and the address of the person's usual place of residence or work;

(b) produce evidence of the person's identity.

(3) When giving a requirement under subsection (2), the member must warn the person that it is an offence to contravene the requirement unless the person has a reasonable excuse.

(4) A person commits an offence if the person contravenes a requirement given under subsection (2).

Maximum penalty: 4 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

(7) Subsection (4) does not apply to a person who has been given a requirement under subsection (2) if the member who gave the requirement did not, at the time the requirement was given, warn the person in accordance with subsection (3).

(8) A person commits an offence if:

(a) the person gives a member information or produces evidence required under subsection (2); and

(b) the information or evidence is false or misleading in a material particular.

Maximum penalty: 4 penalty units.

(9) An offence against subsection (8) is an offence of strict liability.

134B Identification of member

(1) A person may require a member who gives the person a requirement under section 134 or 134A to do either or both of the following:

(a) inform the person of the member's name, rank and place of duty;

(b) give the information mentioned in paragraph (a) to the person in writing.

(2) A member who has been given a requirement under subsection (1) commits an offence if:

(a) the member contravenes the requirement; or

(b) the member gives the person information that is false or misleading in a material particular.

Maximum penalty: 4 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

135 Disclosure of names

(1) A member of the Police Force shall, when requested to do so:

(a) by a legal practitioner representing a person held in custody under a law in force in the Territory; or

(b) by a spouse, de facto partner, parent or child of a person held in custody under a law in force in the Territory,

disclose to the person so requesting, whether or not a person is being held in custody and if so where that person is being so held.

(2) A disclosure requested by a person mentioned in subsection (1)(b) that a person is being held in custody shall only be made with the consent of the person being so held.

Division 6 Bringing detained person before court and obtaining evidence after taking into custody

136 Application

Nothing in this Division applies to or in relation to a person held in custody under Division 4.

137 Time for bringing person before court generally

(1) Without limiting the operation of section 123, but subject to subsections (2) and (3) of this section, a person taken into lawful custody under this or any other Act shall (subject to that Act where taken into custody under another Act) be brought before a court of competent jurisdiction as soon as is practicable after being taken into custody, unless he or she is sooner granted bail under the *Bail Act 1982* or is released from custody.

Note for subsection (1)

Section 49E(8) of the Evidence Act 1939 provides that a requirement that a person be before a court is taken to be satisfied if the person is before the court by way of a communication link in accordance with Part 5, Division 2 of that Act.

(2) Despite any other law in force in the Territory (including the common law), but subject to subsections (3) and (4), a member of the Police Force may, for a reasonable period, continue to hold a person the member has taken into lawful custody in custody to enable:

(a) the person to be questioned; or

(b) investigations to be carried out;

to obtain evidence of or in relation to an offence that the member believes on reasonable grounds involves the person, whether or not:

(c) it is the offence in respect of which the person was taken into custody; or

(d) the offence was committed in the Territory;

and the person must not be granted bail under Part 3 or section 33 of the *Bail Act 1982* while so detained, whether or not the person has been charged with an offence.

(3) A member of the Police Force may continue to hold a person under subsection (2) for the purposes of enabling the person to be questioned or investigations to be carried out to obtain evidence of or in relation to:

(a) the offence in respect of which the person was taken into custody, only if it is an offence the maximum penalty for which, in the jurisdiction in which it is believed to have been committed, is imprisonment for any period; or

(b) an offence that is not the offence in respect of which the person was taken into custody, only if it is an offence the maximum penalty for which, in the jurisdiction in which it is believed to have been committed, is imprisonment for 5 years or more.

(4) If the person taken into custody is a youth within the meaning of the *Youth Justice Act 2005*:

(a) every 4 hours for a period of up to 24 hours a member of the Police Force holding the rank of Senior Sergeant or a higher rank must review and record the necessity of holding the youth for the purposes of enabling the youth to be questioned or investigations to be carried out; and

(b) before the expiry of the 24 hour period, the member may:

(i) apply to a Local Court Judge to hold the youth for an additional period of up to 4 hours; and

(ii) make subsequent applications to a Local Court Judge for the holding of the youth for each 4 hour period.

(5) Any action taken under this section is not unlawful only because of a failure to comply with subsection (4).

138 Determining reasonable period to hold person in custody

In determining what is a reasonable period for the purposes of section 137(2), but without limiting the discretion of the court, the court considering the question must, so far as it is relevant, take into account:

(a) the time taken for investigators with knowledge of or responsibility for the matter to attend to interview the person;

(b) the number and complexity of matters to be investigated;

(c) the time taken to interview available witnesses;

(d) the need of investigators to assess relevant material in preparation for interviewing the person;

(e) the need to transport the person from the place of detention to a place where appropriate facilities were available to conduct an interview or other investigation;

(f) the number of people who need to be questioned during the period of detention in respect of any offence reasonably believed to have been committed by the person;

(g) the need to visit the place where any offence under investigation is believed to have been committed or any other place reasonably connected with the investigation of any such offence;

(h) the time taken to communicate with a legal adviser, friend or relative of the detained person;

(j) the time taken by a legal adviser, friend or relative of the person or an interpreter to arrive at the place where the questioning or the investigation took place;

(k) the time taken in awaiting the completion of forensic investigations or procedures;

(m) the time during which the investigation or questioning of the person was suspended or delayed to allow the person to receive medical attention;

(n) the time taken by any examination of the person in pursuance of section 145;

(p) the time the person in custody has been in the company of police prior to and after the commencement of custody;

(q) the time during which the investigation or questioning of the person was suspended or delayed:

(i) to allow the person to rest; or

(ii) because of the intoxication of the person;

(r) the time taken to arrange and conduct an identification parade;

(s) the time taken for an operating electronic recording facility to become available to record the interviewing of the person; and

(t) any interruptions to the electronic recording of the interviewing of the person because of technical reasons (such as a breakdown in equipment or a power failure) beyond the control of the interviewing member.

138A Time for holding intoxicated person before charging and bringing before court

(1) This section applies in relation to a person under arrest, despite section 137(1) and any provision of the *Bail Act 1982* to the contrary, if:

(a) a member of the Police Force has reasonable grounds to believe the person is intoxicated; and

(b) section 137(2) does not apply in relation to the person.

(2) The person may be held in lawful custody without being charged with an offence only for as long as it reasonably appears to the member that the person remains intoxicated.

(3) The member must charge the person with an offence and bring the person before a court (unless already granted bail under the *Bail A/ct 1982*) as soon as practicable after it reasonably appears to the member that the person is no longer intoxicated.

(4) In this section, ***intoxicated*** has the same meaning as in section 127A.

138B Assistance from correctional officers

(1) A correctional officer may assist a member in the exercise of powers or performance of functions under this Division.

(2) For the purpose of providing that assistance, the correctional officer may exercise the powers of a member.

(3) In this section:

correctional officer, see section 4 of the *Correctional Services Act 2014*.

Division 6A Recording of confessions and admissions

139 Definition

In this Division:

electronic recording includes a recording of sound and/or pictures, by electronic means.

relevant offence, in relation to a confession or admission, means:

(a) in the case of an admission or confession made on or after 1 July 1992 and before 1 July 1993, an offence the maximum penalty for which is imprisonment for life or in excess of 7 years;

(b) in the case of an admission or confession made on or after 1 July 1993 and before 1 July 1994, an offence the maximum penalty for which is imprisonment for life or for 7 years or more;

(c) in the case of an admission or confession made on or after 1 July 1994, an offence the maximum penalty for which is imprisonment in excess of 2 years.

140 Person to be warned and given opportunity to inform friend or relative of person's whereabouts

Before any questioning or investigation under section 137(2) commences, the investigating member must inform the person in custody that the person:

(a) does not have to say anything but that anything the person does say or do may be given in evidence; and

(b) may communicate with or attempt to communicate with a friend or relative to inform the friend or relative of the person's whereabouts,

and, unless the investigating member believes on reasonable grounds that:

(c) the communication would result in the escape of an accomplice or the fabrication or destruction of evidence; or

(d) the questioning or investigation is so urgent, having regard to the safety of other people, that it should not be delayed,

the investigating member must defer any questioning or investigation that involves the direct participation of the person for a time that is reasonable in the circumstances and afford the person reasonable facilities to enable the person to make or attempt to make the communication.

141 Warning and offer of facilities to communicate to be tape-recorded

The investigating member who is required by section 140 to give the person in custody the information required by that section to be given shall, if practicable, electronically record the giving of the information and the person's responses, if any.

142 Electronic recording of confessions and admissions

(1) Subject to section 143, evidence of a confession or admission made to a member of the Police Force by a person suspected of having committed a relevant offence is not admissible as part of the prosecution case in proceedings for a relevant offence unless:

(a) where the confession or admission was made before the commencement of questioning, the substance of the confession or admission was confirmed by the person and the confirmation was electronically recorded; or

(b) where the confession or admission was made during questioning, the questioning and anything said by the person was electronically recorded,

and the electronic recording is available to be tendered in evidence.

(2) If the questioning of a person is electronically recorded as required by this section, or the giving of information is recorded as required under section 141, the investigating member shall:

(a) inform the person that the person is entitled to a copy of the electronic recording on request; and

(ab) if the recording is in digitised format, issue a certificate stating that the recording has not been altered after being made and, if applicable, that the prescribed requirements in relation to the method of making the recording have been met; and

(b) if the recording is an audio recording only or a video recording only, cause the recording or a copy of it to be made available to the person or the person's legal representative, without charge, within 7 days after request; and

(c) if both an audio recording and a video recording were made, cause the audio recording or copy of it to be made available to the person or the person's legal representative, without charge, within 7 days after request and cause the person or the person's legal representative to be notified that an opportunity will be provided, on request, for viewing the video recording; and

(d) if the transcript of the electronic recording is prepared by the police, cause a copy of the transcript to be made available on request to the person or the person's legal representative, without charge, within 7 days after the request.

(3) Except as provided in this section, nothing in this section prevents the use of an electronic recording in proceedings for an offence against a law in force in the Territory.

(4) An electronic recording in digitised format used in proceedings must be accompanied by the certificate relating to the recording issued under subsection (2)(ab).

143 Certain evidence may be admitted

A court may admit evidence to which this Division applies even if the requirements of this Division have not been complied with, or there is insufficient evidence of compliance with those requirements, if, having regard to the nature of and the reasons for the non-compliance or insufficiency of evidence and any other relevant matters, the court is satisfied that, in the circumstances of the case, admission of the evidence would not be contrary to the interests of justice.

Division 7 Forensic examinations

144 Search of persons in lawful custody

(1) A member of the Police Force may search a person in lawful custody, including the clothing the person is wearing and any property in the person's immediate possession, and may use the force that is reasonably necessary to conduct the search.

(2) A member may seize any restricted weapon or other article capable of being used to inflict injury on a person or assist an escape from custody, or anything relating to an offence, found as a result of a search under subsection (1).

(3) Subsection (1) does not authorise a member to require a person to remove any clothing that he is wearing unless the member has reasonable grounds for believing that the removal and examination and detention of such clothing may afford evidence of the commission of an offence, and the person is provided with adequate clothing to replace the clothing removed.

(4) Any search carried out pursuant to subsection (1) shall, wherever practicable, be carried out by a member of the same sex as the person searched.

(5) Nothing in this section shall be taken to prevent the search of the person of a person, or of property under the control of a person and the removal from that person of any property for safe keeping upon his being admitted as an inmate of a lock-up, custodial correctional facility (as defined in section 11(1)(a) of the *Correctional Services Act 2014*) or like place after being charged with an offence.

145 Intimate procedures

(1) A member of the Police Force may arrange for a medical practitioner or registered dentist to carry out an intimate procedure on a person in lawful custody on a charge of an offence if the member believes on reasonable grounds that the procedure may provide evidence relating to the offence or any other offence punishable by imprisonment.

(2) The intimate procedure may be carried out if:

(a) the person consents in writing to it being carried out; or

(b) a Local Court Judge approves it being carried out.

(3) The member of the Police Force may apply to a Local Court Judge for the approval:

(a) in person; or

(b) if that is not practicable – by telephone.

(4) The Local Court Judge may approve the intimate procedure being carried out if, after hearing:

(a) the member of the Police Force; and

(b) the person to whom the application relates,

he or she is satisfied that the member has reasonable grounds for the belief referred in subsection (1).

(5) The approval is to be in writing and given to the member of the Police Force.

(6) The member of the Police Force may proceed under the approval despite not having received it if he or she is informed of it by the Local Court Judge by telephone.

(7) A medical practitioner or registered dentist may carry out the intimate procedure in accordance with the approval given under subsection (4).

(8) A member of the Police Force:

(a) may assist a medical practitioner or registered dentist to carry out the intimate procedure; and

(b) may use reasonable force when assisting the medical practitioner or registered dentist.

(9) Before arranging for the intimate procedure to be carried out, the member of the Police Force must inquire whether the person wishes to have a medical practitioner or registered dentist of his or her own choice present when the procedure is carried out.

(10) If the person wishes to have a medical practitioner or registered dentist present, the member of the Police Force must:

(a) provide reasonable facilities to enable the person to arrange for a medical practitioner or registered dentist to be present; and

(b) unless it would be impracticable to do so – arrange for the intimate procedure to be carried out at a time when the medical practitioner or registered dentist can be present.

(11) After the intimate procedure is carried out, the person must be provided with a copy of the report of the medical practitioner or registered dentist provided in respect of the procedure if the person requests it.

(12) No action or proceeding, civil or criminal, can be commenced against a medical practitioner or registered dentist in respect of anything reasonably done by him or her in carrying out an intimate procedure under this section.

(13) Nothing in this section prevents a medical practitioner or registered dentist from examining a person in lawful custody at the request of the person or treating the person for an illness or injury.

(14) In this section:

registered dentist means a person registered under the Health Practitioner Regulation National Law:

(a) to practise in the dental profession as a dentist (other than as a student); and

(b) in the dentists division of that profession.

145A Non-intimate procedures

(1) Subject to general orders, a member of the Police Force holding the rank of Senior Sergeant or a higher rank may approve the carrying out of a non-intimate procedure on a person:

(a) whom the member reasonably suspects has committed an indictable offence; or

(b) who is in lawful custody charged with an offence punishable by imprisonment.

(2) A member of the Police Force may, in accordance with the approval, carry out the non-intimate procedure.

(2A) If the non-intimate procedure is the taking of a sample by buccal swab, a member of the Police Force may direct the person to provide the sample.

(3) A person is not to be taken to have provided a sample unless the sample is sufficient to enable an analysis of it to be carried out.

(4) A member of the Police Force may use reasonable force when exercising his or her powers under this section.

145B Voluntary non-intimate procedures

(1) Subject to general orders, a member of the Police Force holding the rank of Senior Sergeant or a higher rank may carry out or cause to be carried out a non-intimate procedure on a person who consents to the non-intimate procedure being carried out.

(2) The person's consent is to be in writing.

146 Certain non-intimate procedures on persons in custody

(1) Subject to general orders, a member of the Police Force holding the rank of Sergeant or a higher rank, or for the time being in charge of a police station may, in respect of a person in lawful custody:

(a) on a charge of an offence; or

(b) in relation to a warrant issued in accordance with any law in force in the Territory,

carry out or cause to be carried out an identifying non-intimate procedure.

(2) In exercising his powers under subsection (1) a member of the Police Force may, for that purpose, use such force and may call upon such assistance as may be necessary.

(3) In this section, ***identifying non-intimate procedure*** means taking:

(a) prints of the hands, fingers, feet or toes; or

(b) photographs.

147 Databases

(1) The Commissioner may maintain databases of any information obtained from carrying out forensic procedures under this Act or any other Act.

(2) Information may be recorded in the databases from forensic procedures carried out before the commencement of this section.

147A Exchange of information in databases

The Minister or the Commissioner may enter into an arrangement with the Commissioner of Police or other appropriate authority of a corresponding jurisdiction providing for the exchange of information recorded in a database maintained under this Act and a database maintained under a forensic law of the corresponding jurisdiction.

147B Access to and use of information stored in database

(1) A person may have access to or use information stored in a database maintained under this Act only for the following purposes:

(a) investigating an offence;

(b) proceedings for an offence;

(c) giving the information to the person to whom the information relates;

(d) administering the database;

(e) investigating a reportable death or disaster within the meaning of the *Coroners Act 1993*;

(f) locating a missing person;

(g) identifying a deceased person or the remains of a deceased person;

(h) an arrangement entered into under section 147A.

(2) However, if a non-intimate procedure is carried out in accordance with a person's consent under section 145B for investigating an offence, the information obtained from the procedure:

(a) must not be used for investigating another offence other than a relevant offence; and

(b) is inadmissible as evidence in any proceeding other than a proceeding for the offence or a relevant offence.

(3) In this section:

relevant offence means an offence that is punishable by a term of imprisonment of 14 years or more.

147C Retaining and analysing samples

(1) The Commissioner may retain a sample for the period that he or she thinks fit.

(2) A sample may be subjected to any analysis that the Commissioner thinks fit and any information obtained may be recorded in the databases maintained under this Act.

(3) However, a DNA analysis of the sample must be a type or method of DNA analysis prescribed by the Regulations.

(4) In this section:

sample means anything obtained from carrying out a forensic procedure.

147D Powers under Division are additional to any others

The powers given by this Division are in addition to and do not take away from any other powers that members of the Police Force have under any other law in force in the Territory.

147E Arrangements with corresponding jurisdictions for registration of forensic orders

(1) The Minister may enter into an arrangement with the responsible Minister of a corresponding jurisdiction providing for:

(a) the registration by the Commissioner of orders authorising the carrying out of forensic procedures made under a forensic law of the responsible Minister's jurisdiction (***forensic procedure orders***); or

(b) the registration under that forensic law of forensic procedure approvals.

(2) If the Minister enters into an arrangement under subsection (1), the proper authority of the corresponding jurisdiction may apply to the Commissioner for the registration, or the cancellation of registration, of a forensic procedure order.

(3) The application must be accompanied by a copy of the forensic procedure order certified by the person who made the order.

(4) If a forensic procedure order is registered by the Commissioner, the forensic procedure authorised by the order may be carried out in the Territory in accordance with:

(a) for an intimate procedure:

(i) on an adult – section 145; or

(ii) on a youth – section 30 of the *Youth Justice Act 2005*; or

(b) for a non-intimate procedure:

(i) on an adult – section 145A; or

(ii) on a youth – section 31 of the *Youth Justice Act 2005.*

(5) The forensic procedure may be carried out in the Territory as if an approval were given under the section mentioned in subsection (4)(a) or (b) for the procedure.

(6) In this section:

adult means a person who has attained the age of 18 years.

youth has the same meaning as in the *Youth Justice Act 2005*.

147F Forensic material from corresponding jurisdictions

(1) Forensic material lawfully obtained (whether before or after the commencement of this section) under a forensic law of a corresponding jurisdiction may be kept, accessed and used in the Territory under this Division.

(2) Subsection (1) applies even if the material was obtained:

(a) in circumstances in which this Division would not authorise the material to be obtained; or

(b) in accordance with requirements that are less stringent than, or are otherwise substantively different to, the requirements applying under this Division.

(3) In this section:

forensic material means anything obtained from carrying out a forensic procedure, and includes the information obtained from an analysis of the thing.

Division 7AA Blood testing for infectious diseases

Subdivision 1 Preliminary matters

147FA Interpretation

(1) In this Division:

affected member means a member in relation to whom there are grounds for disease testing.

child means a person who is under the age of 18 years.

court means the Local Court.

disease test approval means an approval under Subdivision 2 for the taking and testing of a blood sample from a transferor.

disease test authorisation means a disease test approval or a disease test order.

disease test order means an order of the court under Subdivision 3 authorising the taking and testing of a blood sample from a transferor, and includes a variation of the order under section 147FK(3).

grounds for disease testing, see section 147FB(5).

incapable person means a person who is not a child and who:

(a) for any reason is unable to give consent to being tested for an infectious disease; or

(b) is deceased, unconscious, or otherwise unable:

(i) to understand a request to give consent to being tested for an infectious disease; or

(ii) to communicate whether or not the person consents to being tested for an infectious disease.

infectious disease means any of the following:

(a) Human Immunodeficiency Virus (HIV) infection;

(b) Hepatitis B;

(c) Hepatitis C;

(d) another disease prescribed by regulation capable of being transmitted by the transfer of a substance.

nurse means a person registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as a nurse (other than as a student).

protected person means:

(a) a child; or

(b) an incapable person.

qualified person means a person who has been trained to take samples of blood from persons by a registered training organisation (as defined in section 3 of the *National Vocational Education and Training Regulator Act 2011* (Cth)).

senior member means a member of or above the rank of superintendent.

substance means blood, saliva or faeces.

transfer of a substance means the transfer of a substance from a person into broken skin, or a mucous membrane, of a member.

transferor, where there are grounds for disease testing, means the person from whom it is suspected the substance was transferred.

(2) In this Division, a person is a ***responsible person*** for a transferor in the following circumstances:

(a) if the transferor is a child – the person is any of the following:

(i) a parent of the child;

(ii) a guardian of the child;

(iii) another adult person who has responsibility for the day-to-day care of the child;

(iv) if no person mentioned in subparagraph (i) to (iii) is available – a person, or a person in a class of persons, prescribed by regulation;

(b) if the transferor is an incapable person other than a deceased person – the person is any of the following:

(i) an adult relative of the incapable person;

(ii) a person who is a guardian of the incapable person under the *Guardianship of Adults Act 2016*;

(iii) a person who is a donee of an enduring power of attorney created by instrument under the *Powers of Attorney Act 1980* and is authorised to perform functions in relation to the incapable person in the circumstances in which this Act applies;

(iv) a person who is a decision maker for the incapable person under the *Advance Personal Planning Act 2013* and is authorised to perform functions in relation to the incapable person in the circumstances in which this Act applies;

(v) a person who is a carer (as defined in section 4 of the *Carers Recognition Act 2006*) in relation to the incapable person;

(vi) if no person mentioned in subparagraph (i) to (v) is available – a person, or a person in a class of persons, prescribed by regulation;

(c) if the transferor is a deceased person – the person has lawful custody of the transferor's body.

Subdivision 2 Disease test approvals

147FB Application for disease test approval

(1) An affected member may apply to a senior member for a disease test approval in relation to a transferor if:

(a) there are grounds for disease testing; and

(b) the transferor is not a protected person; and

(c) the senior member is not involved in the investigation of any suspected offence to which the proposed disease test approval relates.

(2) The application must:

(a) if practicable be in writing; and

(b) state the full name of, and other relevant details in relation to, the applicant; and

(c) state the full name and address of the transferor, if known; and

(d) state the grounds for suspecting that there has been a transfer of a substance from the transferor to the affected member; and

(e) include any other information that is prescribed by regulation for this subsection.

(3) If it is not practicable to make the application in writing, the applicant must, as soon as practicable after the application is made, make a written record of it, including all the information required under subsection (2).

(4) If the transferor is being detained under section 147FC, the application must be made:

(a) as soon as practicable after the transferor's apprehension; and

(b) in a manner that ensures the determination of the application as soon as practicable after that apprehension.

(5) In this section:

grounds for disease testing, in relation to a transferor, means grounds for suspecting that there has been a transfer of a substance from the transferor to a member as a result of:

(a) an assault by the transferor against the member; or

(b) the lawful apprehension or detention of the transferor by the member; or

(c) another circumstance prescribed by regulation and involving the transferor and the member.

147FC Detention of transferor

A member may apprehend and detain the transferor for as long as is reasonably necessary to enable the determination of the application.

147FD Disease test approval

(1) A senior member may grant a disease test approval:

(a) after having considered an application made under section 147FB, if satisfied that:

(i) there are grounds for disease testing; and

(ii) the transferor is not a protected person; or

(b) even if the affected member has not made an application under section 147FB if, in addition to being satisfied of the matters mentioned in paragraph (a)(i) and (ii), the senior member:

(i) has knowledge of the circumstances that gave rise to the grounds for disease testing; and

(ii) is satisfied that it was not feasible for the affected member to apply for the approval within a reasonable time after those grounds arose.

(2) The disease test approval may be granted subject to any conditions that the senior member considers appropriate and specifies in the approval.

(3) A disease test approval may be:

(a) granted orally, whether in person or by radio, telephone or any other available means of communication; or

(b) granted in writing, containing the particulars in the form approved by the Commissioner, which must include a statement of the effect of the approval.

(4) The senior member must, as soon as practicable after granting an approval orally, make a record in writing of the particulars mentioned in subsection (3)(b) relating to the approval.

147FE Service of copy of disease test approval

(1) A copy of the disease test approval must be served personally on the transferor.

(2) The copy of the disease test approval must contain an explanation, in a form approved by the Commissioner:

(a) of the purpose and effect of the approval; and

(b) that force may be used to enforce the approval; and

(c) that failure to comply with a requirement mentioned in section 147FF(e) is an offence.

(3) A disease test approval does not take effect until a copy of it is served in accordance with this section.

147FF Effect of disease test approval

A disease test approval relating to a transferor:

(a) authorises a blood sample to be taken from the transferor in accordance with the approval; and

(b) authorises a member to apprehend the transferor and detain the transferor for as long as is reasonably necessary to enable the taking of a sample of the transferor's blood; and

(c) authorises, for paragraph (b), a member to enter any place where the member suspects on reasonable grounds that the transferor might be located; and

(d) authorises a member to take the transferor to a place that the member considers has appropriate facilities for taking the blood sample; and

(e) authorises a member to require the transferor to submit to the taking of the blood sample in accordance with the approval; and

(f) authorises a medical practitioner, nurse or qualified person to take a blood sample from the transferor; and

(g) authorises the blood sample to be tested for an infectious disease.

147FG Failure to comply with requirement under disease test approval

(1) A transferor commits an offence if the transferor:

(a) is required by a member, as mentioned in section 147FF(e), to submit to the taking of a blood sample in accordance with a disease test approval; and

(b) fails to comply with the requirement.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Subdivision 3 Disease test orders

147FH Application for disease test order

The following persons may apply to the court for a disease test order in relation to a transferor:

(a) an affected member, if:

(i) there are grounds for disease testing; and

(ii) the transferor is a protected person;

(b) a senior member if, in addition to being satisfied of the matters mentioned in paragraph (a)(i) and (ii), the senior member:

(i) has knowledge of the circumstances that gave rise to the grounds for disease testing; and

(ii) is satisfied that it was not feasible for the affected member to apply for the order within a reasonable time after those grounds arose.

147FI Service of copy of application

The applicant must serve a copy of the application personally on a third party for the transferor.

147FJ Hearing of application

(1) The court:

(a) must hear and decide the application with as little delay as possible and in the absence of the public; and

(b) may, in extraordinary circumstances, adjourn the application (but for no more than 24 hours) to allow further evidence to be put before the court; and

(c) must ensure that the transferor and the third party are given the opportunity to be represented by a lawyer at the hearing; and

(d) may appoint another responsible person to be the third party for the transferor if satisfied that the third party on whom the application was served is not available to attend the hearing or otherwise act as third party under this Division.

(2) An affected member cannot be compelled to give evidence at the hearing.

147FK Disease test order

(1) The court may make a disease test order in relation to the transferor if the court is satisfied that:

(a) there are grounds for disease testing; and

(b) in the circumstances, a blood sample should be taken from the transferor.

(2) The disease test order may be made subject to any conditions that the court considers appropriate and specifies in the order.

(3) The court may, by further order, vary or revoke a disease test order.

147FL Explanation of disease test order

(1) A court making a disease test order must ensure that the transferor and the third party are informed of the following:

(a) the transferor's right under section 147FP to appeal to the Supreme Court against the disease test order;

(b) that the transferor has a right to obtain legal advice and to communicate with a lawyer;

(c) about the purpose and effect of the order;

(d) that force may be used to enforce the order;

(e) that failure to comply with the order is an offence.

(2) The court must take all reasonable steps to ensure that the explanation provided to the transferor is expressed in a language and manner that the transferor is likely to understand.

(3) A failure by the court to comply with this section does not invalidate the disease test order.

147FM Service of copy of disease test order

(1) A copy of a disease test order must be served personally on the third party for the transferor.

(2) A disease test order does not take effect until a copy of it is served in accordance with this section.

147FN Effect of disease test order

A disease test order relating to a transferor:

(a) authorises a blood sample to be taken from the transferor in accordance with the order; and

(b) requires the third party for the transferor to take all reasonable steps to enable the taking of the blood sample in accordance with the order; and

(c) authorises a member to apprehend the transferor and detain the transferor for as long as is reasonably necessary to enable the taking of a sample of the transferor's blood; and

(d) authorises, for paragraph (c), a member to enter any place where the member suspects on reasonable grounds that the transferor might be located; and

(e) authorises a member to take the transferor to a place that the member considers has appropriate facilities for taking the blood sample; and

(f) authorises a member to require the transferor to submit to the taking of the blood sample in accordance with the order; and

(g) authorises a medical practitioner, nurse or qualified person to take a blood sample from the transferor; and

(h) authorises the blood sample to be tested for an infectious disease.

147FO Failure to comply with disease test order

(1) A person commits an offence if:

(a) the person is the third party for a transferor; and

(b) a disease test order is made for the transferor; and

(c) the person fails to take all reasonable steps to enable the taking of the blood sample in accordance with the order.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

147FP Appeal against disease test order on behalf of transferor

(1) The third party for a transferor in relation to whom a disease test order has been made may, on behalf of the transferor, appeal to the Supreme Court against the order.

(2) Unless the Supreme Court otherwise orders, the appeal:

(a) must be filed without delay; and

(b) does not stay the operation of the disease test order.

(3) The Supreme Court cannot order a stay of a disease test order of more than 48 hours from the time the disease test order is made.

(4) The Supreme Court must hear and decide the appeal:

(a) (unless it is impossible to do so) within 48 hours after the disease test order is made; and

(b) in the absence of the public; and

(c) (unless it is impossible to do so) without adjourning the appeal.

(5) The Supreme Court may allow or dismiss the appeal.

147FQ Appeal against disease test order by affected member

(1) If a court decides not to make a disease test order under section 147FK, the following persons may appeal to the Supreme Court against the decision:

(a) an affected member named in the application for the order;

(b) a senior member if the senior member is satisfied that it is not feasible for the affected member to file the appeal without delay.

(2) Unless the Supreme Court otherwise orders, the appeal must be filed without delay.

(3) The Supreme Court must hear and decide the appeal:

(a) (unless it is impossible to do so) within 48 hours after the decision not to make a disease test order; and

(b) in the absence of the public; and

(c) (unless it is impossible to do so) without adjourning the appeal.

(4) The Supreme Court may allow or dismiss the appeal.

Subdivision 4 General

147FR Taking blood sample under disease test authorisation

(1) A member executing a disease test authorisation in relation to a transferor may ask a medical practitioner, nurse or qualified person to take a blood sample from the transferor.

(2) When asking the medical practitioner, nurse or qualified person to take the blood sample, the member must produce a copy of the disease test authorisation for inspection by the medical practitioner, nurse or qualified person.

(3) Subject to subsection (4), the medical practitioner, nurse or qualified person must take a blood sample from the transferor in accordance with the disease test authorisation.

(4) A medical practitioner, nurse or qualified person is not required to take a blood sample as authorised in the disease test authorisation, until the practitioner, nurse or qualified person is satisfied that:

(a) there is no serious risk that serious harm would be caused to the transferor, or another person, by the taking of the sample; and

(b) the health of the transferor would not be adversely affected by the taking of the sample.

(5) If assistance is needed for taking a blood sample, the medical practitioner, nurse or qualified person may ask another person to give assistance that is necessary and reasonable.

(6) The medical practitioner, nurse or qualified person, and a person assisting the medical practitioner, nurse or qualified person, may use the force that is reasonably necessary for taking the blood sample.

(7) The medical practitioner, nurse or qualified person must, as soon as practicable after taking the sample, send the sample to a pathology laboratory with appropriate facilities for testing the sample for infectious diseases.

147FS Analysis of blood sample

(1) A person who works in the pathology laboratory and who receives a blood sample sent under section 147FR(7) must conduct an analysis of the sample, or arrange for another person to conduct an analysis, without delay after receiving the sample.

(2) The person who conducts the analysis may destroy the sample, or part of the sample:

(a) before it has been used for the analysis or a further analysis, if it is not required for any analysis or further analysis; or

(b) after it has been used for the analysis or a further analysis, if it is not required for any further analysis.

147FT No payment for taking or testing blood

A person who takes a blood sample under a disease test authorisation cannot require any of the following persons to make any payment (whether in money or money's worth) for, or in relation to, the taking or testing of a blood sample under a disease test authorisation:

(a) the transferor;

(b) if the transferor is a protected person – a responsible person, whether or not the responsible person was a third party to the application for the authorisation;

(c) if the transferor is a deceased person – the person who has lawful possession of the transferor's estate.

147FU Restriction on disclosure of results of analysis

(1) Section 155(1) does not apply to a disclosure of the results of an analysis of a blood sample under this Subdivision by a person who conducted the analysis, if the disclosure is to one or more of the following:

(a) an affected member in relation to the analysis;

(b) the transferor;

(c) if the transferor is a protected person – a responsible person for the protected person;

(d) if the transferor is a deceased person – the senior next of kin of the transferor;

(e) a medical practitioner, nurse or other health professional involved in treating, or providing care for, an affected member or the transferor;

(f) a psychiatrist, psychologist or social worker providing counselling for an affected member or the transferor;

(g) a person, or a person in a class of persons, prescribed by regulation for this section.

(2) Section 155(1) does not apply to a person mentioned in subsection (1) who discloses information (the ***secondary disclosure***) disclosed to the person under this section:

(a) if the secondary disclosure is to another person mentioned in subsection (1); or

(b) if the person is an affected member – if the secondary disclosure is not a public disclosure to the media made in a way that would reveal the identity of the transferor; or

(c) if the person is a transferor – if the secondary disclosure is not a public disclosure to the media made in a way that would reveal the identity of an affected member.

(3) In this section:

senior next of kin, see section 3 of the *Coroners Act 1993*.

147FV Prohibition on use of blood sample for other purpose

A person commits an offence if:

(a) the person intentionally uses a blood sample for a purpose; and

(b) the blood sample was taken under this Part and the person is reckless in relation to that circumstance; and

(c) the purpose is other than analysis under this Part and the person is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

Division 7A Crime scenes

147G Definitions

In this Division:

crime scene means a place established as a crime scene under section 147J.

crime scene powers means powers conferred by section 147N.

investigations includes any type of examination, analysis or process associated with the investigation of a relevant offence at a crime scene.

relevant offence means:

(a) an offence punishable by a term of imprisonment of 6 months or more; or

(b) in relation to an act or omission that occurs outside the Territory and is not an offence against a law of the Territory – an act or omission that if done or omitted to be done in the Territory would constitute an offence punishable by a term of imprisonment of 6 months or more.

responsible member, for a crime scene, means:

(a) the member of the Police Force who establishes the crime scene; or

(b) if another member assumes control of the crime scene after it is established – that member.

senior member means a member of the Police Force of or above the rank of Superintendent.

147H Application of Division

(1) This Division applies in relation to any place (including a public place and private premises) despite any other law in force in the Territory, including the common law.

(2) This Division does not require a member of the Police Force to obtain a search warrant in relation to a place before establishing it as a crime scene or exercising crime scene powers at the place.

(3) However, this Division does not prevent a member of the Police Force from applying for a search warrant, or exercising any other power, under this Act at or in relation to a place (including a crime scene), and does not affect the exercise of the power.

147J Authority to enter place and establish crime scene

(1) If a member of the Police Force suspects on reasonable grounds that a relevant offence has been, is being, or is about to be, committed at a place, the member may:

(a) enter and take control of the place and anything at the place; and

(b) remain at the place to establish and maintain a crime scene if the member is satisfied it is reasonably necessary to do so to preserve, or search for and gather, evidence of the commission of a relevant offence; and

(c) exercise crime scene powers at the place.

(2) A member may enter any other place if it is necessary to do so to gain entry to a place mentioned in subsection (1).

(3) To establish a crime scene, a member must, whenever practicable:

(a) identify what is the crime scene; and

(b) decide the boundaries necessary to protect the crime scene; and

(c) mark the boundaries in a way that sufficiently identifies the crime scene to the public.

(4) A member who establishes a crime scene must comply with this Division and any of the following that relate to crime scenes:

(a) general orders;

(b) orders, instructions or guidelines published in the *Police Gazette*.

(5) As soon as reasonably practicable after a member has established a crime scene, the member must notify a senior member of its establishment.

147K Restricting access to crime scene

(1) After establishing a crime scene, the responsible member must immediately take the steps the member considers reasonably necessary to protect anything at the crime scene from being damaged, interfered with or destroyed.

(2) A person (other than the responsible member) must not enter a crime scene unless:

(a) the person has a special reason, associated with the investigations at the crime scene, for entering; or

(b) the person is a member who is asked to enter the crime scene by the responsible member or another member; or

(c) the person is assisting the responsible member at the crime scene; or

(d) the presence of the person is necessary to preserve life or property at the crime scene; or

(e) the person is authorised to enter by the responsible member.

147L Preserving evidence at crime scene

The responsible member for a crime scene must ensure that nothing at the crime scene is unnecessarily touched or moved.

147M Period for maintaining crime scene

(1) The responsible member for a crime scene may maintain the crime scene for a reasonable period to enable necessary investigations to be conducted.

(2) In deciding what is a reasonable period for maintaining a crime scene, the responsible member must take into account the following matters:

(a) the complexity of the relevant offence being investigated;

(b) the size of the crime scene;

(c) the availability of investigators or examiners with the appropriate knowledge to conduct investigations;

(d) any matter relevant to the exercise of crime scene powers.

147N Crime scene powers

(1) During the period a crime scene is maintained, the responsible member has the power to do any of the following:

(a) direct a person to leave the crime scene or remove a thing or animal from the crime scene;

(b) remove from the crime scene:

(i) a person who fails to comply with a direction to leave the crime scene; or

(ii) a thing or animal that a person fails to remove from the crime scene;

(c) direct a person not to enter the crime scene;

(d) prevent a person from entering the crime scene;

(e) prevent a person from removing a thing from or otherwise interfering with the crime scene or anything at the crime scene and, for that purpose, stop, detain and search the person;

(f) remove or direct the removal of an obstruction from the crime scene;

(g) conduct necessary investigations, including by searching the crime scene and inspecting anything at the crime scene to obtain evidence of the commission of a relevant offence;

(h) seize and detain all or part of a thing that might provide evidence of the commission of a relevant offence;

(i) open anything at the crime scene that is locked;

(j) take electricity, gas or any other utility for use at the crime scene;

(k) direct the occupier, or a person apparently involved in the management or control, of the place where the crime scene is located to maintain a continuous supply of electricity at the crime scene;

(l) photograph or otherwise record the crime scene and anything at the crime scene;

(m) dig up anything at the crime scene;

(n) remove walls, ceilings or floors of a building at the crime scene;

(o) dismantle anything in or at the crime scene;

(p) exercise any other power that:

(i) it is reasonably necessary to exercise; or

(ii) is reasonably incidental to a power conferred by this subsection.

(2) The power conferred by subsection (1)(h) to seize and detain a thing at the crime scene includes the power:

(a) to remove the thing from the crime scene; and

(b) to guard the thing at the crime scene.

(3) Crime scene powers may also be exercised by other members of the Police Force and other persons assisting the responsible member at the crime scene.

(4) A member or person assisting the responsible member at the crime scene is subject to the directions of the responsible member.

Division 8 Closure of public places

148 Commissioner may close public places

(1) Where 12 or more persons take part in an assembly at a public place and conduct themselves in a manner that results in unlawful physical violence to any person or unlawful damage to property, the Commissioner of Police may direct, either orally or in writing, that the place or any part thereof be closed and be kept closed to the public for such period of time specified in the direction as the Commissioner considers to be necessary to prevent the continuation of such conduct at that place.

(2) Where a person conducts himself in a manner that creates an immediate and substantial risk of unlawful physical violence resulting to himself or any other person, the Commissioner of Police may direct, either orally or in writing, that a public place be closed and be kept closed to the public for such period of time specified in the direction as the Commissioner considers to be necessary to prevent the infliction of unlawful physical violence on that person or on any other person.

(3) If any person is at any public place that has been closed in pursuance of subsection (1) or (2) and is advised by a member of the Police Force that the place has been so closed, that person shall forthwith leave that place upon being requested to do so by the member, and it is an offence for the person to refuse or fail to comply with the request.

Maximum penalty: 4 penalty units.

Part VIIA Protection from liability of members, Territory's vicarious liability and legal proceedings for damages for certain torts by members

Division 1 Preliminary matters

148A Part applies to duties of member as public official

(1) For this Part, an act done or omission made, or purported to have been done or made, by a member in the capacity of a public official under an Act or regulations (the ***authorising law***) is taken to have been done or omitted to be done by the member in the performance or purported performance of duties as a member.

(2) For subsection (1), a public official is a person appointed or authorised under the authorising law to perform inspection, investigation or other enforcement functions under that law for the Territory, an Agency or another Territory authority.

Examples of a public official for subsection (2)

1 A Fisheries Officer within the meaning of the Fisheries Act 1988.

2 An inspector within the meaning of the Meat Industries Act 1997.

3 An authorised officer within the meaning of the Tobacco Control Act 2002.

(3) This Part applies despite a provision of the authorising law providing for the protection from civil liability of a member (regardless of whether it also provides for protection from criminal liability) for an act done or omitted to be done in the exercise or purported exercise of a power, or the performance or purported performance of a function, under the law.

Division 2 Protection from liability and vicarious liability of the Territory

148B Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

Division 3 Legal proceedings for damages for torts by members

148D Definition

In this Division:

police tort claim means a claim for damages, including damages in the nature of punitive damages, for a tort allegedly committed by a member in the performance or purported performance of duties as a member, whether or not committed jointly or severally with

another person.

148E Application of Division

(1) For this Division, a tort is committed or allegedly committed by a member if the tort is committed or allegedly committed by a person who was a member at the time of the tort or alleged tort.

(2) A reference in this Division to a claim against a member for a tort or alleged tort includes a reference to a claim against a person who was a member at the time of the tort or alleged tort but who has ceased to be a member since that time.

148F How police tort claim is made

(1) Except as provided in this Division, a person cannot in any legal proceeding make a police tort claim against a member but may instead make the claim against the Territory.

(2) A person who makes a police tort claim against the Territory in any legal proceeding may join the member who allegedly committed the tort as a party to the proceeding only if:

(a) the Territory denies it would be vicariously liable for the alleged tort if it were established the member had committed the tort; or

(b) the court grants leave for the claim to include a claim for damages in the nature of punitive damages.

(3) However, subsection (2)(a) does not require the Territory to deny it would be vicariously liable for the alleged tort if it were established the member had committed the tort merely because the police tort claim includes a claim for damages in the nature of punitive damages.

(4) If a person seeks to join a member under subsection (2) as a party to a legal proceeding:

(a) the person is not required to file a new originating process but may instead amend the existing originating process;

(b) the court must make the orders it considers appropriate to enable the existing originating process to be amended; and

(c) section 162 does not prevent the making of a claim in the amended originating process for damages against the member for the alleged tort if the amendment is made within 2 months after the Territory denies it would be vicariously

liable for the alleged tort if it were established the member had committed the tort.

(5) If the court grants leave for the claim to include a claim for damages in the nature of punitive damages, the existing originating process must be amended within 2 months after the date the court grants the leave.

148G Part does not affect certain claims and proceedings

(1) This Division does not:

(a) make the Territory vicariously liable for a tort committed by a member if it would not otherwise be vicariously liable for the tort;

(b) prevent the Territory from bringing a legal proceeding against, or claiming damages or a contribution or indemnity in any legal proceeding from, a member for a tort committed by the member;

(c) prevent the Territory from joining a member in a legal proceeding claiming damages for a tort committed by the member;

(d) prevent a person from bringing a legal proceeding, or claiming damages in any legal proceeding, against another person who is not a member but who is jointly or severally liable for a tort committed by a member;

(e) prevent a person from making a police tort claim against a member in any legal proceeding brought against the person by the member; or

(f) prevent a person from bringing a legal proceeding, or claiming damages in a legal proceeding, against a member for a tort committed by the member other than in the performance or purported performance of duties as a member.

(2) However, in a legal proceeding mentioned in subsection (1)(b) or (c), the amount of damages, contribution or indemnity the court may order is the amount found by the court to be just and equitable in the circumstances.

Part VIII Offences in relation to Police Force

149 Delivery of property

(1) A person who ceases to be a member of the Police Force shall not refuse to deliver up to the Commissioner, or to such person, and at such time and place, as the Commissioner directs, all property which has been supplied to him for the execution of his duty, or which is in his custody by virtue of his having been a member.

Maximum penalty: 8 penalty units or imprisonment for 3 months or both.

(2) A justice of the peace may issue a warrant to search for and seize all property not delivered up as required by subsection (1), wherever the same may be found.

152 Deserting post

A member shall not desert his post.

Maximum penalty: 17 penalty units or imprisonment for 12 months or both.

153 Assault on member

A member shall not assault another member:

(a) who holds or who is performing or exercising the functions or duties of a rank superior to the first-mentioned member; or

(b) of the same rank under whose control, direction or supervision the first-mentioned member is performing his duties.

Maximum penalty: 8 penalty units or imprisonment for 6 months or both.

154 False representation

(1) A person shall not knowingly make a false representation in connection with an application for appointment to the Police Force.

Maximum penalty: 4 penalty units or imprisonment for 3 months or both.

(2) A prosecution under this section shall only be brought with the written consent of the Commissioner and upon the finding of guilt of a person of an offence under subsection (1), the Commissioner may terminate the appointment, if any, of the person so found guilty.

(3) A prosecution under this section must be commenced within 6 months after the Commissioner first becomes aware that the false representation has been made.

155 Unauthorised disclosure of confidential information

(1) A person commits an offence if:

(a) the person obtains information in the course of performing functions connected with the administration of this Act; and

(b) the person intentionally engages in conduct; and

(c) the conduct results in the disclosure of the information and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) Subsection (1) does not apply if:

(a) the person discloses the information:

(i) for the administration of this Act; or

(ii) with the consent of the person to whom the information relates; or

(iii) for legal proceedings arising out of the operation of this Act; or

(b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

156 Personation

Any person shall not without lawful excuse, personate a member of the Police Force.

Maximum penalty: 4 penalty units or imprisonment for 3 months or both.

157 Offering bribes

A person shall not directly or indirectly:

(a) offer or give any bribe or reward to;

(b) enter into any agreement with; or

(c) seek any undertaking from,

a member of the Police Force for the purpose of that member forgoing any of the duties of that member.

Maximum penalty: 17 penalty units or imprisonment for 12 months or both.

157A Disarming member

(1) A person commits an offence if:

(a) a member is acting in the course of the member's duties and the person is reckless in relation to that circumstance; and

(b) the member is armed with a firearm or ECD and the person has knowledge of that circumstance; and

(c) the person intentionally engages in conduct; and

(d) the conduct results in the member losing possession of the firearm or ECD and the person intends that result.

Maximum penalty: Imprisonment for 6 years.

(2) In subsection (1):

ECD means an electro-muscular control device designed to emit an electric current into a human body for the purposes of physical incapacitation.

158 Resisting member

A person shall not resist a member in the execution of his duty or aid or incite any other person to resist a member in the course of his duty.

Maximum penalty: 8 penalty units or imprisonment for 6 months or both.

159 Hindering member

(1) A person shall not hinder or obstruct a member in the execution of his duty or aid or abet any other person to hinder or obstruct a member in the execution of his duty.

Maximum penalty: 8 penalty units or imprisonment for 6 months or both.

(2) A person who hinders or obstructs a police dog or police horse being used by a member in the execution of the member's duty is taken to hinder or obstruct the member.

159A Killing or injuring police dogs or police horses

(1) A person must not intentionally kill or injure a police dog or police horse:

(a) knowing that the dog or horse is being used by a member of the Police Force in the execution of the member's duty; or

(b) as a consequence of, or in retaliation for, the use of the dog or horse by a member of the Police Force while in the execution of the member's duty.

Maximum penalty: 215 penalty units or imprisonment for 5 years.

(2) A court that finds a person guilty of an offence against subsection (1) may, in addition to any penalty that may be imposed, order the person to pay to the Commissioner a reasonable amount for:

(a) the treatment, care, rehabilitation and retraining of the police dog or police horse concerned; or

(b) if it is necessary to replace the police dog or police horse – buying and training its replacement.

160 Unlawfully aiding or securing release from custody

A person shall not aid any unlawful act which:

(a) results in the release of any person from lawful custody; or

(b) is done in preparation for securing the release of any person from lawful custody.

Maximum penalty: 8 penalty units or imprisonment for 6 months or both.

Part IX Miscellaneous matters

160A Investigations regarding matters under Parts IV or V

Nothing in Part IV or V shall prevent the Commissioner or a prescribed member from conducting or causing to be conducted such investigations as he otherwise has the power to conduct or require to be conducted to establish a belief referred to in those Parts or shall prevent anything found as the result of such an investigation from being used in any investigation or inquiry under this Act or in criminal proceedings before a court.

161 Actions against members

(1) Where any action is brought against a member of the Police Force for any act done by that member in accordance with the terms of a warrant issued by a Local Court Judge or justice of the peace, such member shall not be responsible for:

(a) any irregularity in the issue of such a warrant; or

(b) want of jurisdiction in the Local Court Judge or justice of the peace who issued the warrant in respect of which the action is brought.

(2) Where, in any action of a kind referred to in subsection (1), a member:

(a) produces the warrant to which the action relates;

(b) proves that the signature which appears on the warrant and which purports to be that of a Local Court Judge or justice of the peace, is the handwriting of a person whose name appears subscribed on the warrant as a Local Court Judge or justice of the peace;

(c) proves that the person referred to in paragraph (b) is reputed to be and acts as a Local Court Judge or justice of the peace, possessing jurisdiction to issue the warrant to which the action relates; and

(d) proves that the acts complained of were done in obedience to such warrant,

a verdict shall be found in favour of the member who shall be entitled to recover the cost of the suit as determined by the court before whom the action was brought.

162 Actions and prosecutions to be commenced within 2 months

(1) Subject to section 148F(4)(c), an action against the Territory under Part VIIA or a prosecution against a member for an offence against this Act must be commenced within 2 months after the act or omission complained of was committed, and not otherwise.

(2) In any such action the defendant may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereon.

(3) No plaintiff shall succeed in any such action if tender of sufficient amends has been made before the action is brought, or if a sufficient sum of money has been paid into court after action is brought by or on behalf of the defendant, together with the costs incurred up to that time.

(4) Where, in any such action:

(a) a verdict is given for the defendant;

(b) the plaintiff becomes non-suited or discontinues any such action after issue is joined; or

(c) judgment is given against the plaintiff,

the defendant shall recover his full costs as between solicitor and client, and have the like remedy for the same as any defendant has by law in other cases.

(5) Notwithstanding that a verdict has been given for the plaintiff in any such action, the plaintiff shall not have costs against the defendant unless the Supreme Court Judge before whom the trial takes place certifies his approbation of the action and the verdict obtained thereon.

(6) An action under Part IV in relation to a breach of discipline by a member shall be commenced within 6 months after the act or omission constituting the alleged breach of discipline was discovered, or such longer period as the Commissioner or a Local Court Judge allows under subsection (9).

(7) At any time before the end of the 6 month period, application may be made for an extension of the time to commence an action under Part IV in relation to a breach of discipline by a member.

(7A) The application must:

(a) be made by a member of or above the rank of Commander; and

(b) be made to:

(i) if the extension of time sought is not more than 12 months – the Commissioner; or

(ii) otherwise – a Local Court Judge.

(7B) Also, the Ombudsman may make the application to the Commissioner if:

(a) the alleged breach of discipline arises out of an investigation or police complaints resolution process under the *Ombudsman Act 2009*; and

(b) the extension of time sought is not more than 12 months.

(8) An application under subsection (7) may be made in the absence of the member and evidence in support of the application may be given orally or by affidavit.

(9) The Commissioner or a Local Court Judge to whom an application is made under subsection (7) may, after considering the evidence in support of the application and the submissions presented by the applicant, extend or refuse to extend the time to commence an action under Part IV.

(10) In determining whether to extend the time to commence an action under Part IV, the Commissioner or Local Court Judge must have regard to:

(a) the complexity of the investigation to determine whether the member should be charged with a breach of discipline;

(b) any unforeseen delays that may have occurred during the investigation; and

(c) any delays in the investigation caused by the member.

164 Certificate of appointment

(1) The Commissioner may issue to a member a certificate under his hand certifying that, on a specified date, the member was appointed to be a member of the Police Force, a Special Constable, an Aboriginal Community Police officer or a Police auxiliary, as the case may be.

(2) The production, in any proceedings, of the certificate of the kind referred to in subsection (1) is prima facie evidence of the facts stated in the certificate and unless the contrary is proved, a document purporting to be such a certificate shall be deemed to be

such a certificate and shall be deemed to have been duly issued.

165 *Police Gazette*

(1) The Commissioner may authorise the publication of a document to be known as the *Police Gazette* containing such orders, instructions, determinations, directions, notices and other things:

(a) as are required to be published in it by this Act or by the regulations; or

(b) as the Commissioner thinks fit.

(2) No person, other than a member of the Police Force shall, without reasonable cause, knowingly:

(a) have in his possession a copy of the *Police Gazette*; or

(b) reproduce in any manner the whole or a part of a *Police Gazette*.

Maximum penalty: 1.7 penalty units.

(3) No liability, civil or criminal, shall attach to the Crown, the Commissioner or any person acting under the direction of the Commissioner, for anything contained in the *Police Gazette*.

166 Sale or other disposal of items

(1) This section applies in relation to an item that has lawfully come into the possession of a member in the course of the member's duties.

(2) Subject to section 112 of the *Classification of Publications, Films and Computer Games Act 1985*, the item may be sold by public auction, or otherwise disposed of as directed by the Commissioner, if:

(a) the item is not claimed by a person who has a legal right to the item within 3 months; and

(b) a notice of intention to sell or otherwise dispose of the item has been published on the Agency's website or in another manner as directed by the Commissioner.

(3) Despite subsection (2), if, in the opinion of a member, the item is of a perishable nature, the Commissioner may authorise the sale or other disposal of the item at any time and without notice.

(4) A sale or other disposal under this section is valid against all persons.

166AA Medical examinations

(1) Where the Commissioner proposes to promote or transfer under this Act a member, the Commissioner:

(a) in the case of:

(i) a proposed promotion – shall; or

(ii) a proposed transfer – may,

by notice in writing served on the member, request that member to undergo a medical examination, at a time and place specified in the notice, for the purpose of ascertaining the medical fitness of that member to discharge the duties attaching to the position to which it is proposed to promote or transfer that member.

(2) A member the subject of a request under subsection (1) shall, at the time and place specified in the request, undergo the medical examination specified in that request.

(3) Where a medical examination referred to in subsection (1)(a) of a member shows that he does not have the medical fitness to discharge the duties attaching to the position to which it is proposed to promote or transfer him, the Commissioner may, for that reason, refuse to so promote or transfer that member.

(4) For the purposes of this section, medical fitness, in relation to a member, includes the mental health of the member.

166A Service Medal

(1) The Administrator may award a medal, to be known as the Police Service Medal, to a member who, subject to this section, has completed 10 years continuous meritorious service as a member.

(2) A member is taken to have completed 10 years continuous service whether or not the member was seconded to a prescribed entity for all or part of the 10 years of continuous service.

(3) A member has not completed 10 years continuous service as a member if, during that 10 year period, the member was granted a period of unpaid leave by the Commissioner, except for secondment to a prescribed entity.

(4) However, if a member was granted unpaid leave (other than for secondment to a prescribed entity) but completes 2 or more periods of service totalling 10 years, the member is taken to have completed 10 years continuous service.

(5) Also, the Commissioner may determine that periods of service totalling 10 years may be counted as continuous in relation to a member if, during the period that included the 10 years, all of the following happened:

(a) the member resigned under section 20;

(b) within 2 years after the date of resignation – the member applied for re-appointment as a member;

(c) the member was subsequently re-appointed as a member.

(6) The Police Service Medal must be in a form, and with attachments, as the Administrator thinks fit.

(7) In this section:

prescribed entity means any of the following:

(a) a police force established by an Act of the Commonwealth, a State or another Territory;

(b) the Northern Territory Police Association Incorporated;

(c) the Australian Crime Commission established under the *Australian Crime Commission Establishment Act 2002* (Clth) or any of its predecessors, including, for example, the National Crime Commission;

(d) another entity prescribed by regulation.

166B Members engaging in business

(1) Except with the written approval of the Commissioner, a member of the Police Force shall not, whether within or outside the Territory, engage in any remunerative employment, occupation or business outside the Police Force.

(2) Subsection (1) does not prevent a member of the Police Force from becoming a member or shareholder of a corporation or an incorporated association but, except as provided by subsection (3), a member of the Police Force shall not take any part in the conduct of the business of the corporation or association otherwise than in the exercise of his rights as a member or shareholder of the corporation or association.

(3) A member of the Police Force may, with the written approval of the Commissioner, act as a director of a co-operative society that is registered under the law of a State or Territory of the Commonwealth and which does not enter into contracts for the supply of goods or services to the Commonwealth or the Territory.

(4) The Commissioner may, at any time, withdraw an approval given under this section.

167 Regulations

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to:

(a) the method of notifying the establishment and strength of the Police Force to members;

(c) the duties of members;

(d) the powers and obligations of members carrying out or in relation to an investigation arranged in pursuance of section 81(3) or an inquiry under section 84B, and the procedures of such an investigation or inquiry;

(e) examinations for qualification for promotion;

(f) the promotion of members;

(g) prescribing the manner in which and the grounds on which appeals may be made to the Police Appeal Board;

(ga) services which may be provided by the Police Force and for which fees may be charged;

(gb) fees for services prescribed under paragraph (ga) and the recovery of those fees;

(h) the general government, management and discipline of the Police Force; and

(j) prescribing the powers of a prescribed member for the purposes of section 81(2)(d)(ii).

Part X Transitional matters

Division 1 Police Administration Amendment (Powers and Liability) Act 2005

168 Territory's vicarious liability

(1) Part VIIA applies to a tort committed, or allegedly committed, by a member before the commencement of that Part.

(2) However, Part VIIA does not apply if a legal proceeding for the tort or alleged tort was started before the commencement of that Part.

Division 2 Police Administration Amendment (Service Medal) Act 2010

169 Application of section 166A to matters before commencement

For determining 10 years continuous service under section 166A in relation to a member, any of the following that happened before the commencement of this section may be taken into account:

(a) the appointment of, and service by, the member;

(b) after the member's appointment – the member's secondment to a prescribed entity within the meaning of section 166A;

(c) any of the following:

(i) the member's resignation;

(ii) the member's resignation and application for re-appointment;

(ii) the member's resignation, application for re-appointment and subsequent re-appointment;

(d) any period of unpaid leave taken by the member.

Division 3 Alcohol Mandatory Treatment Act 2013

170 Apprehension before commencement date

(1) In calculating the number of occasions on which a person has been apprehended and taken into custody for section 128A(1)(d), any occasions on which the person has been apprehended and taken into custody before the commencement date are to be excluded.

(2) In this section:

commencement date means the day on which section 128A commences.

Division 4 Police Administration Amendment Act 2014

171 Application of section 79A to breach of discipline

Section 79A, as inserted by the *Police Administration Amendment Act 2014* (the ***amending Act***), applies to an alleged breach of discipline as mentioned in section 76, whether or not the breach is alleged to have been committed prior to the commencement of the amending Act.

Division 5 Justice and Other Legislation Amendment (Australian Crime Commission) Act 2017

172 Arrangement in relation to database information

(1) This section applies to an arrangement entered into under section 147A by the Minister or the Commissioner with CrimTrac before 1 July 2016 that is in effect immediately before 1 July 2016.

(2) The arrangement is taken, on and from 1 July 2016, to be an arrangement entered into under that section by the Minister or the Commissioner with the Australian Crime Commission.

(3) In this section:

CrimTrac means the CrimTrac Agency established under section 65 of the *Public Service Act 1999* (Cth).

Division 6 Police Legislation Further Amendment Act 2023

173 Offences committed before commencement of section 116KB

A reference in section 116KB to an offence includes a reference to an offence that was committed before the commencement of Part 2 of the *Police Legislation Further Amendment Act 2023*.

Division 7 Police Legislation Amendment (Powers, Appointments and Other Matters) Act 2023

174 Application of section 166 to items in possession before commencement

(1) This section applies in relation to an item if, before the commencement, the item:

(a) lawfully came into the possession of a member in the course of the member's duties; and

(b) was not claimed, sold or otherwise disposed of under section 166.

(2) The item may be dealt with in accordance with section 166 as in force after the commencement.

(3) In this section:

commencement means the commencement of section 15 of the *Police Legislation Amendment (Powers, Appointments and Other Matters) Act 2023*.

Schedule Forms

sections 26 and 32

FORM 1

FORM OF OATH TO BE TAKEN BY MEMBERS

I, _____ *[promise/ swear etc. as required by Oaths, Affidavits and Declarations Act 2010]* that I will well and truly serve *[Sovereign's name]*, their Heirs and Successors as a member of the Northern Territory Police Force without fear or favour, affection or ill-will from this day and until I am legally discharged from that Force; that I will see and cause the Sovereign's peace to be kept and preserved, that I will prevent, to the best of my powers, all offences against the Sovereign's peace and against all laws in force in the Northern Territory of Australia and that, while I remain a member of the Northern Territory Police Force, I will, to the best of my skill and knowledge, faithfully discharge all my duties according to law. *[So help me God! or as appropriate]*

Taken and subscribed at
this day of
20 .

Administered by me,

FORM 3

section 37A

FORM OF OATH TO BE TAKEN BY MEMBER OF, OR DEPUTY OF MEMBER OF, POLICE ARBITRAL TRIBUNAL

I,……, *[promise/swear etc. as required by Oaths, Affidavits and Declarations Act 2010]* that I will bear true allegiance to *[Sovereign's name]*, their Heirs and Successors according to law, that I will well and truly serve them while acting as a member of the Police Arbitral Tribunal and that I will faithfully and impartially perform the duties of a member of the Police Arbitral Tribunal. *[So help me God! or as appropriate]*

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Police Administration Act 1978* (Act No. 18, 1979)**

Assent date	26 January 1979
Commenced	1 August 1979 (s 2, s 2 *Summary Offences Act 1978* (Act No. 17, 1979) and *Gaz* G30, 26 July 1979, p 5)

***Police Administration Act 1979* (Act No. 74, 1979)**

Assent date	28 June 1979
Commenced	28 June 1979

***Police Administration Act (No. 2) 1979* (Act No. 136, 1979)**

Assent date	7 November 1979
Commenced	14 November 1980 (s 2, s 2 *Classification of Publications Act 1979* (Act No. 135, 1979) and *Gaz* G45, 7 November 1980, p 1)

***Remuneration (Statutory Bodies) Act 1979* (Act No. 9, 1980)**

Assent date	14 January 1980
Commenced	8 February 1980 (*Gaz* G6, 8 February 1980, p 6)

***Police Administration Amendment Act 1981* (Act No. 27, 1981)**

Assent date	25 March 1981
Commenced	25 March 1981

***Statute Law Revision Act (No. 4) 1981* (Act No. 4, 1982)**

Assent date	12 February 1982
Commenced	12 February 1982

***Police Administration Amendment Act 1982* (Act No. 64, 1982)**

Assent date	8 October 1982
Commenced	29 June 1983 (s 2, s 2 *Bail Act 1982* (Act No. 57, 1982) and *Gaz* S19, 19 June 1983)

Police Administration Amendment Act 1983 **(Act No. 5, 1983)**

Assent date	27 April 1983
Commenced	27 April 1983

Police Administration Amendment Act (No. 2) 1983 **(Act No. 18, 1983)**

Assent date	24 June 1983
Commenced	24 June 1983

Police Administration Amendment Act (No. 3) 1983 **(Act No. 35, 1983)**

Assent date	3 October 1983
Commenced	3 October 1983

Police Administration Amendment Act (No. 4) 1983 **(Act No. 74, 1983)**

Assent date	28 November 1983
Commenced	1 February 1984 (*Gaz* G4, 1 February 1984, p 8)

Statute Law Revision Act 1984 **(Act No. 28, 1984)**

Assent date	20 July 1984
Commenced	20 July 1984

Police Administration Amendment Act 1985 **(Act No. 12, 1985)**

Assent date	1 April 1985
Commenced	19 June 1985 (*Gaz* G24, 19 June 1985, p 2)

Police Administration Amendment Act (No. 2) 1985 **(Act No. 47, 1985)**

Assent date	26 September 1985
Commenced	26 September 1985

Police Administration Amendment Act 1986 **(Act No. 11, 1986)**

Assent date	19 May 1986
Commenced	19 May 1986

Police Administration Amendment Act 1988 **(Act No. 10, 1988)**

Assent date	30 March 1988
Commenced	30 March 1988

Police Administration Amendment Act 1989 **(Act No. 6, 1989)**

Assent date	28 March 1989
Commenced	30 October 1989 (s 2, s 2 *Justices Amendment Act 1989* (Act No. 7, 1989) and *Gaz* S61, 27 October 1989)

Amending Legislation

Police Administration (Subsequential Amendments) Act 1989 **(Act No. 52, 1989)**

Assent date	20 September 1989
Commenced	20 September 1989

Police Administration Amendment Act (No. 2) 1989 **(Act No. 27, 1989)**

Assent date	15 June 1989
Commenced	15 June 1989

Police Administration Amendment Act (No. 3) 1989 **(Act No. 40, 1989)**

Assent date	20 September 1989
Commenced	25 October 1989 (s 2, s 2 *Criminal Code Amendment Act 1989* (Act No. 44, 1989) and *Gaz* G42, 25 October 1989, p 4)

***Police Administration Amendment Act 1990* (Act No. 19, 1990)**

Assent date	12 April 1990
Commenced	1 November 1990 (s 2, s 2 *Misuse of Drugs Act 1990* (Act No. 15, 1990) and *Gaz* G40, 10 October 1990, p 3)

***Statute Law Revision Act 1990* (Act No. 33, 1990)**

Assent date	11 June 1990
Commenced	11 June 1990

***Statute Law Revision Act 1991* (Act No. 31, 1991)**

Assent date	25 June 1991
Commenced	25 June 1991

***Police Administration Amendment Act 1991* (Act No. 67, 1991)**

Assent date	14 November 1991
Commenced	14 November 1991

***Dental (Consequential Amendments) Act 1991* (Act No. 75, 1991)**

Assent date	10 December 1991
Commenced	31 January 1992 (*Gaz* S7, 31 January 1992)

***Statute Law (Miscellaneous Amendments) Act 1991* (Act No. 77, 1991)**

Assent date	16 December 1991
Commenced	16 December 1991

***Police Administration Amendment Act 1992* (Act No. 16, 1992)**

Assent date	23 April 1992
Commenced	10 June 1992 (s 2, s 2 *Misuse of Drugs Act 1992* (Act No. 11, 1992) and *Gaz* G23, 10 June 1992, p 3)

***Police Administration Amendment Act (No. 2) 1992* (Act No. 36, 1992)**

Assent date	25 June 1992
Commenced	15 July 1992 (*Gaz* G28, 15 September 1992, p 3)

***Police Administration Amendment Act (No. 3) 1992* (Act No. 56, 1992)**

Assent date	24 September 1992
Commenced	1 January 1993 (s 2, s 2 *Firearms Amendment Act 1992* (Act No. 54, 1992) and *Gaz* S66, 24 December 1992, p 3)

***Public Sector Employment and Management (Consequential Amendments) Act 1993* (Act No. 28, 1993)**

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz* S53, 29 June 1993)

***Police Administration Amendment Act 1993* (Act No. 38, 1993)**

Assent date	14 September 1993
Commenced	1 January 1994 (s 2, s 2 *Domestic Violence Act 1992* (Act No. 67, 1992) and *Gaz* G51, 22 December 1993, p 3)

***Police Administration Amendment Act (No. 2) 1993* (Act No. 69, 1993)**

Assent date	9 November 1993
Commenced	9 November 1993

***Police Administration Amendment Act 1994* (Act No. 20, 1994)**

Assent date	18 April 1994
Commenced	1 December 1994 (*Gaz* S57, 1 December 1994)

***Police Administration Amendment Act (No. 2) 1994* (Act No. 54, 1994)**

Assent date	22 September 1994
Commenced	7 November 1994 (s 2, s 2 *Misuse of Drugs Act 1994* (Act No. 56, 1994) and *Gaz* G44, 2 November 1994, p 3)

***Police Administration Amendment Act (No. 3) 1994* (Act No. 55, 1994)**

Assent date	22 September 1994
Commenced	22 September 1994

***Statute Law Revision Act 1995* (Act No. 14, 1995)**

Assent date	23 June 1995
Commenced	23 June 1995

***Sentencing (Consequential Amendments) Act 1996* (Act No. 17, 1996)**

Assent date	19 April 1996
Commenced	1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

***Police Administration Amendment Act 1996* (Act No. 21, 1996)**

Assent date	17 June 1996
Commenced	14 August 1996 (s 2, s 2 *Summary Offences Amendment Act (No. 2) 1996* (Act No. 22, 1996) and *Gaz* G32, 7 August 1986, p 3)

***Police Administration Amendment Act (No. 2) 1996* (Act No. 40, 1996)**

Assent date	17 September 1996
Commenced	1 December 1996 (*Gaz* S37, 29 November 1996)

***Police Administration Amendment Act 1997* (Act No. 30, 1997)**

Assent date	17 December 1997
Commenced	17 December 1997

***Police Administration Amendment Act 1998* (Act No. 34, 1998)**

Assent date	20 May 1998
Commenced	21 May 1998 (s 2, s 2 *Kava Management Act 1998* (Act No. 33, 1998) and *Gaz* S17, 21 May 1998)

***Police Administration Amendment Act (No. 2) 1998* (Act No. 87, 1998)**

Assent date	9 December 1998
Commenced	15 February 1999 (*Gaz* S6, 15 February 1999)

***Statute Law Revision Act (No. 2) 1998* (Act No. 92, 1998)**

Assent date	11 December 1998
Commenced	ss 7 and 11: 13 January 1999 (*Gaz* G1, 13 January 1999, p 6); ss 6 and 15: 10 March 1999 (*Gaz* G9, 10 March 1999, p 2); s 3: 1 April 1999 (*Gaz* S15, 1 April 1999); rem: 11 December 1998

***Statute Law Revision Act 1999* (Act No. 27, 1999)**

Assent date	18 June 1999
Commenced	18 June 1999

Police Administration Amendment Act 2000 **(Act No. 63, 2000)**

Assent date	14 November 2000
Commenced	14 November 2000

Police Administration Amendment Act 2001 **(Act No. 50, 2001)**

Assent date	19 October 2001
Commenced	22 October 2001 (*Gaz* S44, 22 October 2001)

Statute Law Revision Act (No. 2) 2001 **(Act No. 62, 2001)**

Assent date	11 December 2001
Commenced	11 December 2001

Police Administration Amendment Act 2002 **(Act No. 3, 2002)**

Assent date	28 March 2002
Commenced	24 April 2002 (*Gaz* G16, 24 April 2002, p 3)

Police Administration Amendment Act (No. 2) 2002 **(Act No. 20, 2002)**

Assent date	7 June 2002
Commenced	21 August 2002 (s 2, s 2 *Witness Protection (Northern Territory) Act 2002* (Act No. 21, 2002) and *Gaz* G33, 21 August 2002, p 5)

Statute Law Revision Act (No. 2) 2002 **(Act No. 59, 2002)**

Assent date	7 November 2002
Commenced	7 November 2002

Police Administration Amendment Act 2003 **(Act No. 13, 2003)**

Assent date	18 March 2003
Commenced	7 May 2003 (*Gaz* G18, 7 May 2003, p 3)

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 **(Act No. 1, 2004)**

Assent date	7 January 2004
Commenced	17 March 2004 (*Gaz* G11, 17 March 2004, p 8)

Police Administration Amendment (Forensic Procedures) Act 2004 **(Act No. 57, 2004)**

Assent date	4 November 2004
Commenced	17 August 2005 (*Gaz* G33, 17 August 2005, p 5)

Police Administration Amendment (Powers and Liability) Act 2005 **(Act No. 11, 2005)**

Assent date	17 March 2005
Commenced	20 April 2005 (*Gaz* G16, 20 April 2005, p 5)

Youth Justice (Consequential Amendments) Act 2005 **(Act No. 33, 2005)**

Assent date	22 September 2005
Commenced	1 August 2006 (s 2, s 2 *Youth Justice Act 2005* (Act No. 32, 2005) and *Gaz* G30, 26 July 2006, p 3)

Statute Law Revision Act 2005 **(Act No. 44, 2005)**

Assent date	14 December 2005
Commenced	14 December 2005

Legal Profession (Consequential Amendments) Act 2007 **(Act No. 7, 2007)**

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 (*Gaz* G26, 27 June 2007, p 3); rem: 17 May 2007

***Police Administration Amendment Act 2007* (Act No. 29, 2007)**

Assent date	12 December 2007
Commenced	pt 1 and ss 3 and 15: 1 December 1996 (s 2); pt 4: nc (rep by Act No. 12, 2009 before comm); rem: 19 December 2007 (*Gaz* G51, 19 December 2007, p 6)

Amending Legislation

***Justice and Other Legislation Amendment Act 2009* (Act No. 12, 2009)**

Assent date	26 May 2009
Commenced	24 June 2009 (*Gaz* G25, 24 June 2009, p 2)

***Domestic and Family Violence Act 2007* (Act No. 34, 2007)**

Assent date	12 December 2007
Commenced	1 July 2008 (*Gaz* G25, 25 June 2008, p 4)

***Cross-border Justice Act 2009* (Act No. 1, 2009)**

Assent date	12 March 2009
Commenced	ss 67(b), 68(2)(e), 106, 108, 114, 116 and Part 15 Div 6: 1 December 2009; rem: 1 November 2009 (*Gaz* S59, 29 October 2009)

***Ombudsman Act 2009* (Act No. 5, 2009)**

Assent date	12 March 2009
Commenced	1 July 2009 (*Gaz* G21, 27 May 2009, p 5)

***Statute Law Revision Act 2009* (Act No. 25, 2009)**

Assent date	1 September 2009
Commenced	16 September 2009 (*Gaz* G37, 16 September 2009, p 3)

***Police Administration Amendment (Service Medal) Act 2010* (Act No. 15, 2010)**

Assent date	20 May 2010
Commenced	20 May 2010

***Health Practitioner (National Uniform Legislation) Implementation Act 2010* (Act No. 18, 2010)**

Assent date	20 May 2010
Commenced	1 July 2010 (s 2)

***Statute Law Revision Act 2010* (Act No. 29, 2010)**

Assent date	9 September 2010
Commenced	13 October 2010 (*Gaz* G41, 13 October 2010, p 2)

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010* (Act No. 40, 2010)**

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

***Alcohol Reform (Prevention of Alcohol-related Crime and Substance Misuse) Act 2011* (Act No. 18, 2011)**

Assent date	20 May 2011
Commenced	ss 16 and 22(2), (3) and (5): 1 January 2012; pt 3 (except s 22(2), (3) and (5)): 1 November 2011 (*Gaz* S60, 27 October 2011); rem: 1 July 2011 (s 16 and pt 3: 1 January 2012; *Gaz* G36, 7 September 2011, p 2 notice revoked by *Gaz* S60, 27 October 2011)

***Traffic and Other Legislation Amendment Act 2011* (Act No. 22, 2011)**

Assent date	22 August 2011
Commenced	1 September 2011 (*Gaz* G35, 31 August 2011, p 9)

***Penalties Amendment (Chief Minister's and Other Portfolios) Act 2011* (Act No. 27, 2011)**

Assent date	31 August 2011
Commenced	21 September 2011 (*Gaz* G38, 21 September 2011, p 5)

***Justice and Other Legislation Amendment Act 2012* (Act No. 2, 2012)**

Assent date	21 March 2012
Commenced	pts 2, 3 and 5 to 7: 1 August 2012; rem: 1 September 2012 (*Gaz* G29, 18 July 2012, p 7)

***Medicines, Poisons and Therapeutic Goods Act 2012* (Act No. 13, 2012)**

Assent date	27 April 2012
Commenced	1 May 2014 (*Gaz* S22, 30 April 2014, p 12)

***Health Practitioner (National Uniform Legislation) Implementation Act 2012* (Act No. 17, 2012)**

Assent date	22 May 2012
Commenced	1 July 2012 (s 2)

***Alcohol Mandatory Treatment Act 2013* (Act No. 17, 2013)**

Assent date	28 June 2013
Commenced	1 July 2013 (s 2)

***Correctional Services (Related and Consequential Amendments) Act 2014* (Act No. 27, 2014)**

Assent date	4 September 2014
Commenced	9 September 2014 (*Gaz* S80, 9 September 2014, p 2)

***Statute Law Revision Act 2014* (Act No. 38, 2014)**

Assent date	13 November 2014
Commenced	13 November 2014

***Police Administration Amendment Act 2014* (Act No. 45, 2014)**

Assent date	5 December 2014
Commenced	17 December 2014 (*Gaz* S126, 17 December 2014)

***Alcohol Mandatory Treatment Amendment Act 2014* (Act No. 46, 2014)**

Assent date	8 December 2014
Commenced	pt 2 (other than ss 4 and 5): 15 January 2015 (*Gaz* S2, 15 January 2015, p 1); rem: 27 January 2016 (*Gaz* G4, 27 January 2016, p 2)

***Misuse of Drugs Amendment Act 2015* (Act No. 31, 2015)**

Assent date	8 December 2015
Commenced	17 December 2015 (*Gaz* S115, 17 December 2015)

***Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (*Gaz* S34, 29 April 2016)

***Police Administration Amendment Act 2016* (Act No. 30, 2016)**

Assent date	13 July 2016
Commenced	28 September 2018 (*Gaz* S77, 28 September 2018)

***Statute Law Revision Act 2017* (Act No. 4, 2017)**

Assent date	10 March 2017
Commenced	12 April 2017 (*Gaz* G15, 12 April 2017, p 3)

***Justice and Other Legislation Amendment (Australian Crime Commission) Act 2017* (Act No. 9, 2017)**

Assent date	31 May 2017
Commenced	31 May 2017

***Alcohol Harm Reduction Act 2017* (Act No. 16, 2017)**

Assent date	30 August 2017
Commenced	1 September 2017

***Statute Law Revision Act 2018* (Act No. 10, 2018)**

Assent date	23 May 2018
Commenced	20 June 2018 (*Gaz* S41, 20 June 2018)

***Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018* (Act No. 28, 2018)**

Assent date	30 November 2018
Commenced	1 December 2018 (s 2)

***Youth Justice and Related Legislation Amendment Act 2019* (Act No. 32, 2019)**

Assent date	9 October 2019
Commenced	2 March 2020 (*Gaz* G5, 5 February 2020, p 2)

***Statute Law Revision and Repeals Act 2019* (Act No. 33, 2019)**

Assent date	6 November 2019
Commenced	pts 2 and 3: 11 December 2019 (*Gaz* G50, 11 December 2019, p 2); rem: 7 November 2019 (s 2)

***Evidence and Other Legislation Amendment Act 2020* (Act No. 3, 2020)**

Assent date	9 March 2020
Commenced	29 July 2020 (*Gaz* G28, 15 July 2020, p 1)

***Statute Law Revision Act 2020* (Act No. 26, 2020)**

Assent date	19 November 2020
Commenced	20 November 2020 (s 2)

***Police Administration Amendment Act 2021* (Act No. 8, 2021)**

Assent date	13 April 2021
Commenced	27 May 2021 (*Gaz* S15, 27 May 2021)

Police Legislation Amendment Act 2023 **(Act No. 2, 2023)**

Assent date	2 March 2023
Commenced	pts 1 and 3: 2 March 2023 (s 2(1)); pts 2 and 4 and the Sch: 14 April 2023 (*Gaz* S21, 14 April 2023)

Statute Law Amendment (Succession of the Crown) Act 2023 **(Act No. 10, 2023)**

Assent date	20 April 2023
Commenced	21 April 2023 (s 2)

Police Legislation Further Amendment Act 2023 **(Act No. 18, 2023)**

Assent date	17 August 2023
Commenced	21 September 2023 (*Gaz* S67, 20 September 2023)

Police Legislation Amendment (Powers, Appointments and Other Matters) Act 2023 **(Act No. 31, 2023)**

Assent date	6 December 2023
Commenced	7 December 2023 (s 2)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 6 *Police Administration Amendment Act (No. 2) 1983* (Act No. 18, 1983)
s 7 *Police Administration Amendment Act (No. 3) 198*3 (Act No. 35, 1983)
s 39 *Police Administration Amendment Act (No. 4) 1983* (Act No. 74, 1983)
ss 3 and 4 *Police Administration Amendment Act 1986* (Act No. 11, 1986)
s 8 Police Administration Amendment Act 1988 (Act No. 10, 1988)
ss 14 and 15 *Police Administration Amendment Act 1994* (Act No. 20, 1994)
s 4 *Police Administration Amendment Act (No. 3) 1994* (Act No. 55, 1994)
s 16 *Police Administration Amendment Act (No. 2) 1996* (Act No. 40, 1996)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 2, 3, 4, 9, 14, 14A, 34H, 34K, 34M, 97, 108, 116, 116A, 116H, 116J, 120, 120A, 120BA, 125, 126, 130A, 133A, 133E, 137, 138A, 138B, 144, 147B, 147E, 147FA, 147FU, 148A, 162 and 166 and sch.

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ss 1 – 2	amd No. 4, 1982, s 3
s 3	amd No. 74, 1983, s 4; No. 33, 1990, s 9
s 4	amd No. 74, 1979, s 3; No. 4, 1982, s 3; No. 74, 1983, s 5; No. 55, 1994, s 2; No. 20, 1994, s 4; No. 30, 1997, s 3; No. 87, 1998, s 4; No. 62, 2001, s 15; No. 57, 2004, s 4; No. 33, 2005, s 4; No. 29, 2007, s 4; No. 5, 2009, s 176; No. 12, 2010, s 64; No. 40, 2010, s 118; No. 18, 2011, s 82; No. 17, 2012, s 55; No. 17, 2013, s 165; No. 45, 2014, s 4; No. 31, 2015, s 13; No. 9, 2016, s 160; No. 30, 2016, s 4; No. 16, 2017, s 56; No. 26, 2020, s 3; No. 2, 2023, s 9; No. 18, 2023, s 4
s 4A	ins No. 30, 2016, s 5 amd No. 2, 2023, s 4; No. 31, 2023, s 4
s 5	amd No. 4, 1982, s 3; No. 29, 2007, s 5

s 6	amd No. 4, 1982, s 3
s 7	amd No. 4, 1982, s 3; No. 35, 1983, s 3; No. 30, 1997, s 4
s 8	amd No. 35, 1983, s 4 sub No. 30, 1997, s 5
s 9	amd No. 74, 1983, s 6; No. 28, 1993, s 3; No. 30, 1997, s 6; No. 26, 2020, s 3
s 10	amd No. 30, 1997, s 7
s 12	amd No. 27, 1981, s 3; No. 26, 2020, s 3
s 13	amd No. 27, 1981, s 4
s 14	amd No. 33, 1990, s 9; No. 11, 2005, s 4; No. 18, 2023, s 10
s 14A	ins No. 40, 1996, s 4 amd No. 63, 2000, s 3; No. 20, 2002, s 3; No. 33, 2005, s 4
ss 14B – 14C	ins No. 40, 1996, s 4
s 15	amd No. 20, 1994, s 5
s 15A	ins No. 29, 2007, s 6 amd No. 31, 2023, s 5
s 15B	ins No. 2, 2023, s 5
s 16	amd No. 74, 1979, s 4; No. 18, 1983, s 3; No. 74, 1983, s 7; No. 40, 1996, s 5; No. 11, 2005, s 5; No. 29, 2007, s 7; No. 31, 2023, s 6
s 16A	ins No. 18, 1983, s 4 amd No. 40, 1996, s 6; No. 11, 2005, s 14 sub No. 29, 2007, s 8 amd No. 40, 2010, s 118; No. 31, 2023, s 7
s 16AA	ins No. 35, 1983, s 5 amd No. 28, 1984, s 3; No. 31, 1991, s 14; No. 26, 2020, s 3
s 16AAA	ins No. 20, 1994, s 6
s 17	amd No. 74, 1979, s 5 sub No. 74, 1983, s 8 amd No. 47, 1985, s 3; No. 40, 1996, s 15; No. 29, 2007, s 9 sub No. 31, 2023, s 8
s 17A	ins No. 74, 1983, s 8
s 18	amd No. 4, 1982, s 3; No. 40, 2010, s 118
s 19	amd No. 18, 1983, s 5; No. 67, 1991, s 3; No. 55, 1994, s 3; No. 56, 1994, s 3 sub No. 29, 2007, s 10 amd No. 2, 2023, s 6
s 20	amd No. 40, 1996, s 15; No. 29, 2007, s 39; No. 27, 2011, s 4
s 21	amd No. 4, 1982, s 3; No. 67, 1991, s 4; No. 29, 2007, ss 11 and 39; No. 31, 2023, s 9
s 22	amd No. 4, 1982, s 3; No. 67, 1991, s 5; No. 29, 2007, s 12; No. 31, 2023, s 10
ss 23 – 24	sub No. 74, 1983, s 9 rep No. 20, 1994, s 7
s 26	amd No. 40, 2010, s 118
s 27	amd No. 29, 2007, s 39; No. 40, 2010, s 118
s 28	amd No. 40, 2010, s 118
pt II	
div 4 hdg	sub No. 29, 2007, s 13
s 29	amd No. 74, 1983, s 10 sub No. 29, 2007, s 13
ss 30 – 31	sub No. 29, 2007, s 13
s 32	sub No. 29, 2007, s 13 amd No. 1, 2009, s 155; No. 40, 2010, s 118
s 33	sub No. 29, 2007, s 13
s 34	sub No. 29, 2007, s 13 amd No. 27, 2011, s 4
pt II	
div 5 hdg	ins No. 29, 2007, s 13
ss 34A – 34D	ins No. 29, 2007, s 13

s 34E	ins No. 29, 2007, s 13
	amd No. 1, 2009, s 156; No. 40, 2010, s 118
s 34F	ins No. 29, 2007, s 13
pt II	
div 6 hdg	ins No. 5, 2009, s 177
s 34G	ins No. 5, 2009, s 177
ss 34H – 34M	ins No. 5, 2009, s 177
	amd No. 26, 2020, s 3
s 35A	ins No. 3, 2002, s 4
s 35	amd No. 30, 1997, s 8
s 36	amd No. 62, 2001, s 15
	sub No. 3, 2002, s 5
ss 36A – 36B	ins No. 3, 2002, s 5
s 37	sub No. 3, 2002, s 5
s 37A	ins No. 3, 2002, s 5
	amd No. 40, 2010, s 118
s 38	amd No. 33, 1990, s 9; No. 3, 2002, s 6
s 39	amd No. 74, 1983, s 11
s 40	amd No. 30, 1997, s 9
	sub No. 3, 2002, s 7
ss 40A – 40D	ins No. 3, 2002, s 7
s 41	rep No. 9, 1980, s 6
s 42	amd No. 27, 1981, s 13
s 43	amd No. 27, 2011, s 4
s 44	amd No. 26, 2020, s 3
s 46	amd No. 40, 2010, s 118
s 47	amd No. 27, 2011, s 4
s 48	amd No. 40, 2010, s 118; No. 27, 2011, s 4
s 49	amd No. 27, 2011, s 4
s 50	sub No. 3, 2002, s 8
s 50A	ins No. 3, 2002, s 8
s 51	amd No. 27, 1981, s 13; No. 11, 1986, s 2
	sub No. 30, 1997, s 10
s 52	amd No. 27, 1981, s 5
s 53	amd No. 27, 1981, s 13; No. 74, 1983, s 12
s 54	amd No. 27, 2011, s 4
s 56	amd No. 74, 1983, s 13
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div 3 hdg	rep No. 33, 1990, s 9
s 58	rep No. 33, 1990, s 9
pt IV hdg	amd No. 74, 1983, s 14
	rep No. 20, 1994, s 8
s 59	amd No. 27, 1981, s 6; No. 74, 1983, s 15
s 60	amd No. 27, 1981, s 7; No. 74, 1983, s 16; No. 11, 1986, s 2; No. 33, 1990, s 9
	rep No. 20, 1994, s 8
s 61	rep No. 20, 1994, s 8
s 62	amd No. 9, 1980, s 6; No. 27, 1981, s 8
	rep No. 20, 1994, s 8
s 63	amd No. 27, 1981, s 9
	rep No. 20, 1994, s 8
s 64	rep No. 40, 1981, s 10
s 65	rep No. 20, 1994, s 8
s 66	amd No. 28, 1993, s 3
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s 67	amd No. 74, 1979, s 6; No. 27, 1981, s 11
	sub No. 74, 1983, s 17
	amd No. 47, 1985, s 4; No. 11, 1986, s 2
	rep No. 20, 1994, s 8
s 67A	ins No. 74, 1983, s 17
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s 67B	ins No. 74, 1983, s 17
	amd No. 47, 1985, s 5
	rep No. 20, 1994, s 8
s 68	amd No. 27, 1981, s 12
	rep No. 20, 1994, s 8
ss 68A – 68C	ins No. 74, 1983, s 18
	rep No. 20, 1994, s 8
s 69	amd No. 74, 1983, s 19
	rep No. 20, 1994, s 8
ss 70 – 73	rep No. 20, 1994, s 8
s 74	sub No. 74, 1983, s 20; No. 47, 1985, s 6
	rep No. 20, 1994, s 8
pt IV hdg	ins No. 20, 1994, s 8
pt IV	
div 1 hdg	ins No. 20, 1994, s 8
s 75	amd No. 33, 1990, s 9
	sub No. 20, 1994, s 8
	rep No. 40, 1996, s 7
s 76	sub No. 20, 1994, s 8
	amd No. 40, 1996, s 8; No. 45, 2014, s 5
s 76A	ins No. 40, 1996, s 9
s 77	sub No. 20, 1994, s 8
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div 2 hdg	ins No. 20, 1994, s 8
s 78	amd No. 74, 1983, s 21
	sub No. 20, 1994, s 8; No. 40, 1996, s 10
pt IV	
div 3 hdg	ins No. 20, 1994, s 8
	sub No. 40, 1996, s 10
s 79A	ins No. 45, 2014, s 6
ss 79 – 82	sub No. 20, 1994, s 8; No. 40, 1996, s 10
s 83	sub No. 20, 1994, s 8; No. 40, 1996, s 10
	amd No. 44, 2005, s 22; No. 12, 2010, s 65
s 84	sub No. 20, 1994, s 8; No. 40, 1996, s 10
s 84A	ins No. 40, 1996, s 10
s 84B	ins No. 40, 1996, s 10
	amd No. 30, 1997, s 11
ss 84C – 84D	ins No. 40, 1996, s 10
s 84E	ins No. 40, 1996, s 10
	amd No. 27, 1999, s 15
pt IV	
div 4 hdg	ins No. 40, 1996, s 10
s 84F	ins No. 40, 1996, s 10
s 84G	ins No. 40, 1996, s 10
	amd No. 29, 2007, s 14
s 84H	ins No. 40, 1996, s 10
	amd No. 26, 2020, s 3
s 84J	ins No. 40, 1996, s 10
pt V hdg	sub No. 20, 1994, s 8
s 85	amd No. 74, 1983, s 22
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s 86	sub No. 74, 1983, s 23
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	sub No. 20, 1994, s 8
	rep No. 40, 1996, s 15
s 87	sub No. 74, 1983, s 23
	amd No. 33, 1990, s 9
	sub No. 20, 1994, s 8
s 87A	ins No. 74, 1983, s 23
	rep No. 20, 1994, s 8
s 88	amd No. 74, 1983, s 24
	sub No. 20, 1994, s 8
	amd No. 44, 2005, s 22; No. 12, 2010, s 66
s 89	amd No. 74, 1983, s 25
	sub No. 20, 1994, s 8
s 90	amd No. 74, 1983, s 26; No. 11, 1986, s 2
	sub No. 20, 1994, s 8
s 91	sub No. 20, 1994, s 8
	amd No. 40, 1996, s 15; No. 44, 2005, s 22; No. 12, 2010, s 67
pt VI hdg	sub No. 20, 1994, s 8
pt VI	
div 1 hdg	sub No. 20, 1994, s 8
s 92	amd No. 9, 1980, s 6; No. 74, 1983, s 27
	sub No. 20, 1994, s 8
	amd No. 31, 2023, s 11
s 93	sub No. 20, 1994, s 8
	amd No. 40, 1996, s 11; No. 30, 1997, s 12
pt VI	
div 2 hdg	sub No. 20, 1994, s 8
s 94	rep No. 74, 1983, s 28
	ins No. 20, 1994, s 8
	amd No. 40, 1996, ss 12 and 15; No. 30, 1997, s 13; No. 11, 2005, s 14; No. 7, 2007, s 16; No. 29, 2007, s 16
s 95	sub No. 20, 1994, s 8
	amd No. 40, 2010, s 118; No. 27, 2011, s 4; No. 26, 2020, s 3
pt VI	
div 3 hdg	sub No. 20, 1994, s 8
ss 96 – 99	sub No. 20, 1994, s 8
s 100	sub No. 20, 1994, s 8
	amd No. 27, 2011, s 4
s 101	sub No. 20, 1994, s 8
	amd No. 7, 2007, s 16; No. 9, 2016, s 160
pt VIA hdg	ins No. 29, 2007, s 17
pt VIA	
div 1 hdg	ins No. 29, 2007, s 17
ss 102 – 103	rep No. 20, 1994, s 8
	ins No. 29, 2007, s 17
pt VIA	
div 2 hdg	ins No. 29, 2007, s 17
s 104	amd No. 74, 1983, s 29
	rep No. 20, 1994, s 8
	ins No. 29, 2007, s 17
s 105	rep No. 20, 1994, s 8
	ins No. 29, 2007, s 17
s 106	amd No. 74, 1983, s 30
	rep No. 20, 1994, s 8
	ins No. 29, 2007, s 17
pt VIA	
div 3 hdg	ins No. 29, 2007, s 17

s 107	sub No. 74, 1983, s 31 rep No. 20, 1994, s 8 ins No. 29, 2007, s 17
s 108	sub No. 74, 1983, s 32 rep No. 20, 1994, s 8 ins No. 29, 2007, s 17
pt VIA	
div 4 hdg	ins No. 29, 2007, s 17
s 109	amd No. 74, 1983, s 33 rep No. 20, 1994, s 8 ins No. 29, 2007, s 17
ss 110 – 111	sub No. 74, 1983, s 34 rep No. 20, 1994, s 8 ins No. 29, 2007, s 17
ss 112 – 115	rep No. 20, 1994, s 8
pt VII	
div 1 hdg	amd No. 2, 2023, s 9
s 116	amd No. 74, 1979, s 7; No. 21, 1996, s 3; No. 11, 2005, s 6; No. 29, 2007, s 18; No. 9, 2016, s 160; No. 10, 2018, s 6; No. 2, 2023, s 9; No. 18, 2023, s 5
pt VII	
div 1A hdg	ins No. 29, 2007, s 19
s 116A	ins No. 29, 2007, s 19 amd No. 31, 2015, s 14; No. 18, 2023, s 6
ss 116B – 116H	ins No. 29, 2007, s 19
pt VII	
div 1B hdg	ins No. 31, 2015, s 15
s 116J	ins No. 31, 2015, s 15
pt VII	
div 1C hdg	ins No. 18, 2023, s 7
ss 116K – 116KQ	ins No. 18, 2023, s 7
s 117	amd No. 11, 2005, s 14; No. 29, 2007, s 39; No. 9, 2016, s 160
s 118	amd No. 74, 1979, s 8; No. 29, 2007, s 39; No. 40, 2010, s 118; No. 9, 2016, s 160
s 118A	ins No. 29, 2007, s 20
s 119	amd No. 11, 2005, s 14; No. 29, 2007, s 21; No. 18, 2023, s 8
s 119AA	ins No. 29, 2007, s 22 amd No. 18, 2023, s 10
s 119A	ins No. 11, 2005, s 7 amd No. 29, 2007, s 23
s 120	amd No. 28, 1984, s 3; No. 17, 1996, s 6; No. 27, 1999, s 15; No. 11, 2005, s 14; No. 27, 2011, s 4
pt VII	
div 2A hdg	ins No. 19, 1990, s 3 amd No. 34, 1998, s 3 sub No. 11, 2005, s 14
s 120A	ins No. 19, 1990, s 3 sub No. 34, 1998, s 4 amd No. 11, 2005, s 8; No. 29, 2007, s 24; No. 13, 2012, s 304; No. , 2015, s 16; No. 4, 2017, s 34
s 120B	ins No. 19, 1990, s 3 amd No. 69, 1993, s 2; No. 11, 2005, s 14; No. 29, 2007, s 39; No. 9, 2016, s 160
s 120BA	ins No. 16, 1992, s 3 amd No. 54, 1994, s 3; No. 11, 2005, s 14
s 120BB	ins No. 29, 2007, s 25

s 120C	ins No. 19, 1990, s 3 amd No. 11, 2005, s 14; No. 29, 2007, s 26
s 120D	ins No. 19, 1990, s 3 amd No. 56, 1992, s 3; No. 11, 2005, s 14; No. 29, 2007, s 39
s 120E	ins No. 19, 1990, s 3 amd No. 29, 2007, s 39
pt VII div 2B hdg	ins No. 63, 2000, s 4 rep No. 33, 2005, s 4
ss 120F – 120P	ins No. 63, 2000, s 4 rep No. 33, 2005, s 4
s 121	amd No. 10, 1988, s 3; No. 27, 1999, s 15; No. 9, 2016, s 160
s 122	amd No. 29, 2007, s 39; No. 40, 2010, s 118; No. 9, 2016, s 160
s 123	amd No. 10, 1988, s 4; No. 36, 1992, s 4; No. 29, 2010, s 7; No. 32, 2019, s 20
s 124	amd No. 74, 1979, s 9; No. 10, 1988, s 5; No. 29, 2007, s 39; No. 9, 2016, s 160
s 125	amd No. 10, 1988, s 6; No. 27, 1999, s 15; No. 29, 2007, s 39; No. 9, 2016, s 160
s 126	amd No. 6, 1989, s 3; No. 56, 1992, s 4; No. 38, 1993, s 3; No. 11, 2005, s 14; No. 29, 2007, s 27; No. 34, 2007, s 146 sub No. 8, 2021, s 4
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s 126C	ins No. 8, 2021, s 4 amd No. 18, 2023, s 10
s 126D	ins No. 8, 2021, s 4
s 127A	ins No. 5, 1983, s 2 sub No. 18, 2011, s 83
s 128	amd No. 5, 1983, s 3; No. 29, 2007, s 28; No. 18, 2011, s 84; No. 17, 2013, s 166
s 128A	ins No. 17, 2013, s 167 amd No. 46, 2014, s 14 rep No. 16, 2017, s 57
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s 129	amd No. 13, 2003, s 3; No. 9, 2016, s 160
s 130	amd No. 18, 2011, s 85; No. 22, 2011, s 48
s 130A	ins No. 18, 2011, s 86 amd No. 17, 2013, s 168
s 131	amd No. 9, 2016, s 160
s 132	sub No. 5, 1983, s 4; No. 13, 2003, s 4 amd No. 44, 2005, s 22; No. 12, 2010, s 68; No. 17, 2012, s 55; No. 28, 2018, s 25
s 133	amd No. 74, 1979, s 10; No. 9, 2016, s 160; No. 3, 2020, s 23
pt VII div 4AA hdg	ins No. 45, 2014, s 7
s 133AA	ins No. 45, 2014, s 7 amd No. 31, 2023, s 12
s 133AB	ins No. 45, 2014, s 7 amd No. 9, 2016, s 160
s 133AC	ins No. 45, 2014, s 7 amd No. 4, 2017, s 34
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s 133A	ins No. 50, 2001, s 3 amd No. 33, 2005, s 4; No. 9, 2016, s 160
s 133B	ins No. 50, 2001, s 3 amd No. 9, 2016, s 160
s 133C	ins No. 50, 2001, s 3 amd No. 2, 2012, s 27; No. 9, 2016, s 160
ss 133D – 133E	ins No. 50, 2001, s 3 amd No. 9, 2016, s 160
s 134	amd No. 74, 1979, s 11; No. 40, 1996, s 15; No. 27, 2011, s 4 sub No. 31, 2023, s 13
ss 134A – 134B	ins No. 31, 2023, s 13
s 135	amd No. 1, 2004, s 62; No. 32, 2019, s 21
pt VII div 6 hdg	rep No. 64, 1982, s 3 ins No. 10, 1988, s 7 amd No. 9, 2016, s 160; No. 26, 2020, s 3
s 136	amd No. 74, 1979, s 12 rep No. 64, 1982, s 3 ins No. 10, 1988, s 7
s 137	amd No. 74, 1979, s 13 rep No. 64, 1982, s 3 ins No. 10, 1988, s 7 amd No. 36, 1992, s 5; No. 29, 2007, s 39; No. 9, 2016, s 160; No. 4, 2017, s 34; No. 32, 2019, s 22; No. 3, 2020, s 24
s 138	rep No. 64, 1982, s 3 ins No. 10, 1988, s 7 amd No. 36, 1992, s 6; No. 9, 2016, s 160; No. 26, 2020, s 3
s 138A	ins No. 29, 2007, s 29 amd No. 9, 2016, s 160
s 138B	ins No. 27, 2014, s 29
pt VII div 6A hdg	ins No. 36, 1992, s 7
ss 139 – 141	rep No. 64, 1982, s 3 ins No. 36, 1992, s 7
s 142	rep No. 64, 1982, s 3 ins No. 36, 1992, s 7 amd No. 29, 2007, s 30
s 143	rep No. 64, 1982, s 3 ins No. 36, 1992, s 7
s 144	amd No. 74, 1979, s 14; No. 11, 2005, s 9; No. 29, 2007, ss 31 and 39; No. 27, 2014, s 30; No. 18, 2023, s 10
s 145	amd No. 75, 1991, s 3 sub No. 87, 1998, s 5 amd No. 44, 2005, s 22; No. 12, 2010, s 69; No. 9, 2016, s 160
s 145A	ins No. 87, 1998, s 5 amd No. 57, 2004, s 5; No. 29, 2007, s 32; No. 9, 2016, s 160
s 145B	ins No. 87, 1998, s 5 amd No. 57, 2004, s 6; No. 33, 2005, s 4; No. 29, 2007, s 33
s 146	amd No. 87, 1998, s 6; No. 29, 2007, s 39
s 147	sub No. 87, 1998, s 7 amd No. 57, 2004, s 7
s 147A	ins No. 87, 1998, s 7 amd No. 59, 2002, s 5; No. 57, 2004, s 8
s 147B	ins No. 87, 1998, s 7 sub No. 57, 2004, s 9 amd No. 9, 2016, s 160

s 147C	ins No. 87, 1998, s 7
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s 147D	ins No. 87, 1998, s 7
s 147E	ins No. 57, 2004, s 11
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s 147F	ins No. 57, 2004, s 11
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div 7AA	ins No. 30, 2016, s 6
sdiv 1 hdg	ins No. 30, 2016, s 6
s 147FA	ins No. 30, 2016, s 6
	amd No. 33, 2019, s 49; No. 31, 2023, s 14
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sdiv 2 hdg	ins No. 30, 2016, s 6
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147FG	ins No. 30, 2016, s 6
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sdiv 3 hdg	ins No. 30, 2016, s 6
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147FQ	ins No. 30, 2016, s 6
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div 7AA	
sdiv 4 hdg	ins No. 30, 2016, s 6
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147FV	ins No. 30, 2016, s 6
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div 7A hdg	ins No. 29, 2007, s 34
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147N	ins No. 29, 2007, s 34
s 148	amd No. 40, 1996, s 15; No. 11, 2005, s 14; No. 27, 2011, s 4
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div 1 hdg	ins No. 11, 2005, s 10
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s 148A	ins No. 11, 2005, s 10
pt VIIA	
div 2 hdg	ins No. 11, 2005, s 10
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s 148B	ins No. 11, 2005, s 10
	amd No. 44, 2005, s 35
	sub No. 30, 2016, s 7
s 148C	ins No. 11, 2005, s 10
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148G	ins No. 11, 2005, s 10
s 149	amd No. 40, 1996, s 15; No. 27, 2011, s 4; No. 9, 2016, s 160
s 150	sub No. 20, 1994, s 9
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s 151	rep No. 20, 1994, s 9
s 152	sub No. 40, 1989, s 3
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s 153	sub No. 74, 1983, s 35
	amd No. 27, 2011, s 4
s 154	amd No. 17, 1996, s 6; No. 29, 2007, s 36; No. 27, 2011, s 4

s 155	amd No. 40, 1996, s 15; No. 29, 2007, s 39; No. 27, 2011, s 4 sub No. 30, 2016, s 8
ss 156 – 157	amd No. 27, 2011, s 4
s 157A	ins No. 2, 2023, s 7
s 158	amd No. 20, 1994, s 10; No. 27, 2011, s 4; No. 2, 2023, s 9
s 159	amd No. 29, 2007, s 37; No. 27, 2011, s 4
s 159A	ins No. 29, 2007, s 38 amd No. 27, 2011, s 4
pt IX hdg	amd No. 2, 2023, s 9
s 160A	ins No. 20, 1994, s 11 amd No. 26, 2020, s 3
s 160	amd No. 40, 1989, s 4; No. 27, 2011, s 4; No. 38, 2014, s 2
s 161	amd No. 9, 2016, s 160
s 162	amd No. 40, 1996, s 13; No. 11, 2005, s 11; No. 5, 2009, s 178; No. 9, 2016, s 160; No. 4, 2017, s 34
s 163	amd No. 55, 1994, s 3 rep No. 11, 2005, s 12
s 164	amd No. 33, 1990, s 9; No. 67, 1991, s 6; No. 55, 1994, s 3
s 165	amd No. 29, 2007, s 39; No. 27, 2011, s 4
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s 166A	ins No. 35, 1983, s 6 sub No. 15, 2010, s 3
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s 169	ins No. 15, 2010, s 4
pt X div 3 hdg	ins No. 17, 2013, s 171 amd No. 45, 2014, s 10
s 170	ins No. 17, 2013, s 171
pt X div 4 hdg	ins No. 45, 2014, s 11
s 171	ins No. 45, 2014, s 11
pt X div 5	ins No. 9, 2017, s 8
s 172	ins No. 9, 2017, s 8
pt X div 6 hdg	ins No. 18, 2023, s 9
s 173	ins No. 18, 2023, s 9
pt X div 7 hdg	ins No. 31, 2023, s 16
s 174	ins No. 31, 2023, s 16
sch hdg	amd No. 2, 2023, s 9
sch	amd No. 3, 2002, s 9; No. 25, 2009, s 10; No. 40, 2010, s 118; No. 10, 2023, s 5