



Queensland

Police Powers and Responsibilities and Other Legislation Amendment Bill 2013



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40	Amendment of s 783 (Sale of motor vehicle if not recovered after impounding ends)	34
41	Omission of s 805 (Availability of Act)	34
42	Amendment of sch 6 (Dictionary)	35
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44	Amendment of s 95A (DNA evidentiary certificate)	37
45	Amendment of s 133A (DNA analysts)	38

2013

A Bill

for

An Act to amend the *Police Powers and Responsibilities Act 2000* and the *Evidence Act 1977* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Police Powers and Responsibilities and Other Legislation Amendment Act 2013*. 4
5

Clause 2 Commencement 6

The following provisions commence on a day to be fixed by proclamation— 7
8

- section 4; 9
- section 6; 10
- section 42(2) to (4), (6) and (7). 11

Part 2 Amendment of Police Powers and Responsibilities Act 2000 12
13

Clause 3 Act amended 14

This part amends the *Police Powers and Responsibilities Act 2000*. 15
16

Clause 4 Insertion of new ch 2, pt 7 17

Chapter 2— 18

insert— 19

Part 7	Out-of-control events	1
Division 1	Preliminary	2
Subdivision 1	Application of pt 7	3
53BA Additional powers		4
	The powers a police officer has under this part are additional to, and are not limited by, the powers a police officer otherwise has under this Act or another Act.	5 6 7 8
Subdivision 2	Key definitions	9
53BB What is an <i>out-of-control event</i>		10
(1)	An event becomes an <i>out-of-control event</i> if—	11
(a)	12 or more persons are gathered together at a place (an <i>event</i>); and	12 13
(b)	3 or more persons associated with the event engage in out-of-control conduct at or near the event; and	14 15 16
(c)	the out-of-control conduct would cause a person at or near the event—	17 18
(i)	to reasonably fear violence to a person or damage to property; or	19 20
(ii)	to reasonably believe a person would suffer substantial interference with their rights and freedoms or peaceful passage through, or enjoyment of, a public place.	21 22 23 24 25
(2)	However, each of the following is not an out-of-control event—	26 27

[s 4]

- | | | |
|-----|--|--------------|
| (a) | a licensed event; | 1 |
| (b) | a special event; | 2 |
| (c) | an event that is primarily for the purposes of political advocacy, protest or industrial action; | 3
4
5 |
| (d) | an authorised public assembly under the <i>Peaceful Assembly Act 1992</i> , section 7; | 6
7 |
| (e) | any event held at a major sports facility under the <i>Major Sports Facilities Act 2001</i> , section 4; | 8
9
10 |
| (f) | an event prescribed by regulation. | 11 |
| (3) | For applying subsection (1), it is immaterial whether there is or is likely to be a person who— | 12
13 |
| (a) | fears the things mentioned in subsection (1)(c)(i); or | 14
15 |
| (b) | suffers in the way mentioned in subsection (1)(c)(ii). | 16
17 |

53BC What is *out-of-control conduct* 18

The following conduct is *out-of-control conduct*— 19

- | | | |
|-----|---|----------|
| (a) | unlawfully entering, or remaining in, a place or threatening to enter a place; | 20
21 |
| (b) | behaving in a disorderly, offensive, threatening or violent way; | 22
23 |
| | <i>Examples for paragraph (b)—</i> | 24 |
| | • using offensive, obscene, indecent, abusive or threatening language | 25
26 |
| | • taking part in a fight | 27 |
| (c) | unlawfully assaulting, or threatening to assault, a person; | 28
29 |
| (d) | unlawfully destroying or damaging, or threatening to destroy or damage, property; | 30
31 |

-
- (e) wilfully exposing a person's genitals or doing an indecent act; 1
2
 - (f) causing or contributing to the emission of excessive noise mentioned in section 576(1); 3
4
5
 - (g) driving a motor vehicle in a way that causes a burn out within the meaning of section 69; 6
7
 - (h) unlawfully lighting fires or using fireworks; 8
 - (i) throwing, releasing or placing a thing in a way that endangers, or is likely to endanger, the life, health or safety of a person; 9
10
11
 - (j) unreasonably obstructing the path of a vehicle or pedestrian; 12
13
 - (k) littering in a way that causes, or is likely to cause, harm to a person, property or the environment; 14
15
16
 - (l) being drunk in a public place; 17
 - (m) conduct that would contravene the *Liquor Act 1992*, part 6; 18
19
 - (n) conduct that would contravene the *Drugs Misuse Act 1986*, part 2. 20
21

53BD Other definitions for pt 7 22

In this part— 23

associated, with an event, means a person who— 24

(a) is at the event; or 25

(b) is near the event and is reasonably suspected by a police officer of either— 26
27

(i) intending to go to the event, whether or not the person was invited to attend the event; or 28
29
30

(ii) leaving the event. 31

[s 4]

<i>commissioner's reasonable costs</i> means the	1
reasonable costs of the commissioner for lawful	2
action taken by the police service under this part,	3
including costs for ending an event or dispersing	4
persons from the event.	5
<i>event</i> see section 53BB(1)(a).	6
<i>event authorisation</i> see section 53BE(1).	7
<i>licensed event</i> means an event held at premises to	8
which any 1 of the following licenses or permits	9
under the <i>Liquor Act 1992</i> applies—	10
(a) a commercial hotel licence;	11
(b) a commercial special facility licence;	12
(c) a commercial other licence;	13
(d) a community club licence;	14
(e) a commercial public event permit;	15
(f) an extended hours permit;	16
(g) an adult entertainment permit.	17
<i>organise</i> , an event, means being substantially	18
involved in arranging, hosting, managing,	19
advertising or promoting the event.	20
<i>out-of-control event power</i> means a power, under	21
section 53BG, for a police officer to take action	22
for an event.	23
<i>parent</i> includes a guardian other than the chief	24
executive (child safety).	25
<i>senior police officer</i> means a police officer of at	26
least the rank of sergeant.	27

Division 2	Powers for	1
	out-of-control events	2
Subdivision 1	Authorisation for using	3
	powers	4
53BE	Authorisation by senior police officer	5
(1)	A senior police officer may authorise the use of	6
	out-of-control event powers (an <i>event</i>	7
	<i>authorisation</i>) in relation to an event if the police	8
	officer reasonably believes—	9
	(a) the event is an out-of-control event; or	10
	(b) the event is likely to become an	11
	out-of-control event.	12
(2)	The event authorisation must be written and state	13
	the following—	14
	(a) the date and time the authorisation is given;	15
	(b) the location of the event;	16
	(c) the circumstances that led the senior police	17
	officer to authorise using the out-of-control	18
	event powers in relation to the event;	19
	(d) the restrictions, if any, on using the	20
	out-of-control event powers in relation to	21
	the event.	22
(3)	However, the event authorisation is not invalid	23
	merely because it is not in writing if the senior	24
	police officer makes a written record as required	25
	under subsection (2) at the first reasonable	26
	opportunity after a police officer exercises an	27
	out-of-control event power under the	28
	authorisation.	29
(4)	The event authorisation has effect for 24 hours or	30
	a lesser period decided, after the authorisation is	31
	given, by—	32

[s 4]

- (a) the senior police officer who gave the authorisation; or 1
2
- (b) another senior police officer. 3

Subdivision 2 Using powers 4

53BF Use of powers only if authorised 5

A police officer may take action under this subdivision only if— 6
7

- (a) an event authorisation is given in relation to an event; and 8
9
- (b) the officer acts in accordance with the event authorisation. 10
11

53BG Taking action for out-of-control event 12

- (1) A police officer has the powers under subsection (2) for 1 or more of the following purposes in relation to an event— 13
14
15
 - (a) preventing the event becoming an out-of-control event; 16
17
 - (b) if the event is an out-of-control event, stopping the event from continuing or starting in another location; 18
19
20
 - (c) dispersing persons associated with the event; 21
22
 - (d) minimising the impact of the event on public order or safety; 23
24
 - (e) identifying a person organising the event; 25
 - (f) identifying a person committing an offence under division 3. 26
27
- (2) For the purposes mentioned in subsection (1), a police officer may exercise any 1 or more of the following powers— 28
29
30

-
- (a) stop a vehicle or enter a place without a warrant; 1
2
 - (b) give a person or group of persons a direction to— 3
4
 - (i) stop any conduct; or 5
 - (ii) immediately leave a place; or 6
 - (iii) not return to a place within a stated period of not more than 24 hours, unless the person or group resides at the place; or 7
8
9
10
 - (c) take any other steps the police officer considers reasonably necessary. 11
12

Division 3 Offences and costs orders 13 14

Subdivision 1 Offences 15

53BH Organising an out-of-control event 16

- (1) A person commits an offence if— 17
 - (a) the person organises an event; and 18
 - (b) the event becomes an out-of-control event. 19
- Maximum penalty— 20
- (a) if the event is held at a place where the person does not reside or for which the person does not have lawful authority to use—165 penalty units or 3 years imprisonment; or 21
22
23
24
25
 - (b) otherwise—110 penalty units or 1 year's imprisonment. 26
27

[s 4]

- (2) If the person organising the event is a child, the parent of the child is instead liable for the offence if the parent gave the child permission to organise the event. 1
2
3
4
- (3) In a proceeding for an offence under this section, it is a defence for a person to prove that the person took reasonable steps to prevent the event becoming an out-of-control event. 5
6
7
8
- Examples of taking reasonable steps—* 9
- hiring an appropriate number of security officers for the event 10
11
 - ending the event as soon as possible after persons who are not invited to the event enter the place where the event is being held 12
13
14

53BI Causing an out-of-control event 15

- (1) A person commits an offence if the person— 16
- (a) has been refused entry to an event; and 17
 - (b) engages in out-of-control conduct near the event; and 18
19
 - (c) as a result of the person's conduct, the event becomes an out-of-control event. 20
21
- Maximum penalty—110 penalty units or 1 year's imprisonment. 22
23
- (2) A person may be liable for an offence against subsection (1) even if another person's conduct contributed to the event becoming an out-of-control event. 24
25
26
27

53BJ Offence to contravene direction 28

A person must not, without reasonable excuse, contravene a direction given by a police officer under section 53BG(2). 29
30
31

Maximum penalty— 32

-
- (a) if the person contravenes the direction by doing any of the following—
- (i) unlawfully assaulting, or threatening to assault, another person;
 - (ii) unlawfully destroying or damaging, or threatening to destroy or damage, property;
 - (iii) throwing, releasing or placing a thing in a way that endangers, or is likely to endanger, the life, health or safety of another person;
- 165 penalty units or 3 years imprisonment;
or
- (b) otherwise—110 penalty units or 1 year’s imprisonment.

Subdivision 2 Costs orders

53BK Costs order—adult

- (1) This section applies if a person, other than a child, is found guilty by a court of an offence under subdivision 1 in relation to an event.
- (2) The court may, on its own initiative or an application by the commissioner, order the person to pay some or all of the commissioner’s reasonable costs in relation to the event.
- (3) An order made under subsection (2) is taken to be an order for compensation under the *Penalties and Sentences Act 1992*, part 3, division 4, payable to the State.

[s 4]

- 53BL Costs order—child** 1
- (1) This section applies if a child is found guilty by a court of an offence under subdivision 1 in relation to an event. 2
3
4
 - (2) The court may, on its own initiative or an application by the commissioner, consider whether the child has the capacity to pay the commissioner's reasonable costs in relation to the event. 5
6
7
8
9
 - (3) If the court considers the child has the capacity to pay the commissioner's reasonable costs, the court may order the child to pay some or all of the costs. 10
11
12
13
 - (4) An order made by the court under this section is taken to be an order under the *Youth Justice Act 1992*, section 310, payable to the State. 14
15
16
- 53BM Costs order—parent of child offender** 17
- (1) This section applies if— 18
 - (a) a court considers the matters mentioned in section 53BL(2); and 19
20
 - (b) decides under the section that a child does not have the capacity to pay the commissioner's reasonable costs. 21
22
23
 - (2) The court may, on its own initiative or an application by the commissioner, decide to call on the child's parent to show cause why the parent should not pay the commissioner's reasonable costs in relation to the event. 24
25
26
27
28
 - (3) If the court decides to call on the child's parent to show cause— 29
30
 - (a) notice must be given to the parent in the way required under the *Youth Justice Act 1992*, section 258(4) to (8); and 31
32
33

-
- (b) the show cause hearing must be conducted in the way required under the *Youth Justice Act 1992*, section 259(1) to (4); and
- (c) the *Youth Justice Act 1992*, section 259(5) applies as if the reference to ‘section 258(1)(a), (b) and (c)’ were a reference to subsection (5)(a) and (b); and
- (d) the *Youth Justice Act 1992*, section 259(6) to (12) applies to the court’s decision and orders.
- (4) For applying subsection (3)—
- (a) a reference to compensation in the *Youth Justice Act 1992*, sections 258 and 259 is taken to be a reference to the commissioner’s reasonable costs; and
- (b) a reference to the prosecution in the *Youth Justice Act 1992*, sections 258 and 259 is taken to be a reference to the commissioner.
- (5) For subsection (3)(c), the matters are—
- (a) the parent contributed to the fact the offence happened by not adequately supervising the child; and
- (b) it is reasonable the parent pay some or all of the commissioner’s reasonable costs.
- (6) The *Youth Justice Act 1992*, section 260 applies to the commissioner’s reasonable costs ordered to be paid under subsection (5) as if it were an order for compensation to be paid to the State under the *Youth Justice Act 1992*, section 259.
- 53BN Costs orders and other sentencing**
- (1) A court may make an order under this subdivision in addition to any other sentence to which a person, including a child, is liable.

[s 5]

	(2)	To remove any doubt, it is declared that sections 53BL and 53BM apply in addition to the <i>Youth Justice Act 1992</i> , part 7.	1 2 3
Clause 5		Amendment of s 118 (Sale of motor vehicle if not recovered after impounding ends)	4 5
		Section 118(4) to (7)—	6
		<i>omit, insert—</i>	7
	(4)	Notice of the proposed sale or disposal must be published on the police service website.	8 9
	(5)	If the name and address of the owner of the motor vehicle is known—	10 11
	(a)	the commissioner must also give written notice of the proposed sale or disposal to the owner; and	12 13 14
	(b)	the owner’s name and address must not be published on the police service website.	15 16
Clause 6		Amendment of s 118A (Sale of impounded motor vehicle if driver fails to appear)	17 18
		Section 118A(5) to (8)—	19
		<i>omit, insert—</i>	20
	(5)	Notice of the proposed sale or disposal must be published on the police service website.	21 22
	(6)	If the name and address of the owner of the motor vehicle is known—	23 24
	(a)	the commissioner must also give written notice of the proposed sale or disposal to the owner; and	25 26 27
	(b)	the owner’s name and address must not be published on the police service website.	28 29

Clause 7	Amendment of s 126 (Steps after seizing a vehicle, load or other thing)	1
	Section 126(3), from ‘given’—	2
	<i>omit, insert</i> —	3
	published on the police service website.	4
Clause 8	Amendment of s 127 (Disposal of seized or moved vehicle, load or other thing)	5
	Section 127(2)—	6
	<i>omit, insert</i> —	7
	(2) Notice of the proposed sale must be published on the police service website.	8
Clause 9	Amendment of s 139 (Steps after seizing animal)	9
	Section 139(3), from ‘given’—	10
	<i>omit, insert</i> —	11
	published on the police service website.	12
Clause 10	Amendment of s 140 (Recovery of seized animal)	13
	Section 140(2)—	14
	<i>omit, insert</i> —	15
	(2) Notice of the proposed sale must be published on the police service website.	16
Clause 11	Amendment of s 147 (Powers to provide relief to animal)	17
	(1) Section 147(3)—	18
	<i>omit.</i>	19
	(2) Section 147(5), ‘subsection (4)’—	20
	<i>omit, insert</i> —	21

[s 12]

	subsection (3)	1
(3)	Section 147(4) to (6)—	2
	<i>renumber</i> as section 147(3) to (5).	3
Clause 12	Replacement of s 195L (Destruction of registered digital photo)	4
	Section 195L—	5
	<i>omit, insert</i> —	6
	195L Destruction of registered digital photo	7
(1)	This section applies to copies of a person's registered digital photo—	8
(a)	accessed, under this part or a prescribed smartcard Act, by a police officer; and	9
(b)	in the possession of the police service, including by electronic communication.	10
(2)	The commissioner must take reasonable steps to destroy copies of the person's registered digital photo if—	11
(a)	the photo was accessed for a purpose relevant to the investigation or prosecution of an offence by the person and—	12
(i)	the person is found not guilty of the offence; or	13
(ii)	a proceeding for the offence has not started within 1 year after the day the photo was first accessed; or	14
(b)	the photo is no longer required for the purpose for which it was accessed; or	15
(c)	the photo was accessed under section 195E and a post-access approval order is not made for the access.	16
(3)	Subsection (2) does not apply if—	17

-
- (a) the person has been found incapable of standing trial for the offence because of mental illness; or
- (b) the person's registered digital photo was accessed for a purpose relevant to the investigation or prosecution of more than 1 offence and for at least 1 of the offences—
- (i) the person is found guilty; or
- (ii) a proceeding has started against the person but a finding has not been made by the court about whether or not the person is guilty.
- (4) The destruction of a copy of a registered digital photo must be carried out within a reasonable period after—
- (a) the later of the following if the photo was accessed under section 195E and a post-access approval order is not made for the access—
- (i) the period during which the commissioner may appeal against the justice's order under section 195H(2) ends;
- (ii) if the commissioner starts an appeal under section 195H(2) in relation to the justice's order—the appeal is finally decided; or
- (b) otherwise—the commissioner becomes aware of a circumstance mentioned in subsection (2)(a) or (b) in relation to the photo.
- (5) In this section—
- destroy**, a registered digital photo, includes—
- (a) deleting an electronic copy of the photo; and
-

[s 13]

	(b) ending the way in which the photo may be accessed electronically.	1 2
Clause 13	Insertion of new ch 7, pt 7	3
	After section 197—	4
	<i>insert—</i>	5
	Part 7	6
	Accessing account information	7
	197A Definitions for pt 7	8
	In this part—	9
	<i>account—</i>	10
	(a) means a facility or arrangement through which a financial institution accepts deposits or allows withdrawals; and	11 12 13
	(b) includes a facility or arrangement with a financial institution for a fixed term deposit or safety deposit box.	14 15 16
	<i>financial institution</i> includes—	17
	(a) a corporation that is (or that, if it had been incorporated in Australia, would be) a financial corporation within the meaning of the Commonwealth Constitution, section 51(xx); and	18 19 20 21 22
	(b) another corporation that permits persons to deposit money with it for use by, or at the direction of, the persons for gaming or betting.	23 24 25 26
	<i>senior police officer</i> means a police officer of at least the rank of inspector.	27 28

197B Giving notice to financial institution

- (1) This section applies if a senior police officer—
- (a) reasonably suspects an offence has been committed, is being committed, or is about to be committed; and
 - (b) reasonably believes the advice sought in a notice under this section is required for—
 - (i) investigating the offence; or
 - (ii) commencing proceedings against a person for the offence; or
 - (iii) taking steps reasonably necessary to prevent the commission of the offence.
- (2) A senior police officer may give a written notice to a financial institution stating a name and requiring the institution to advise the police officer—
- (a) whether a person of the stated name is authorised, or was authorised at any time, to operate an account held with the financial institution; and
 - (b) if so, the name in which the account is or was held and the account number.
- (3) Also, a senior police officer may give a written notice to a financial institution stating a number and requiring the institution to advise the police officer—
- (a) whether an account with the stated number is held, or was held at any time, with the financial institution; and
 - (b) if so, the name in which the account is or was held and the name of any person who is or was authorised to operate the account.
- (4) A notice under subsection (2) or (3) must also state each of the following—

[s 13]

- (a) the name and contact details of the senior police officer giving the notice; 1
2
- (b) that the police officer has the reasonable suspicion and belief required to give the notice under subsection (1); 3
4
5
- (c) that the financial institution must comply with the notice within a stated reasonable period; 6
7
8
- (d) how and to whom the advice must be given; 9
- (e) a description of the offence under section 197D. 10
11
- (5) The notice may state any other details that may help the financial institution identify an account. 12
13
- (6) **The same notice may be given—** 14
 - (a) **about more than 1 name or account number; and** 15
16
 - (b) **to more than 1 financial institution.** 17
- (7) When giving a notice under this section, the senior police officer giving the notice must make a written record of the reasons the officer has the reasonable suspicion and belief required to give the notice under subsection (1). 18
19
20
21
22

197C Protection from suits etc. in relation to action taken 23
24

A person is not liable to any action, suit or proceeding in relation to action taken by the person— 25
26

- (a) as required by a notice given under this part; or 27
28
- (b) in the mistaken belief that the action was required by the notice. 29
30

197D Financial institution to comply with notice	1
(1) A financial institution must comply with a notice given to it under this part.	2 3
Maximum penalty—100 penalty units.	4
(2) However, a financial institution must comply with the notice only to the extent that records needed to comply with the notice are held by, or are under the control of, the institution.	5 6 7 8
(3) It is a defence to a prosecution for an offence against subsection (1) for the financial institution to prove it—	9 10 11
(a) could not reasonably comply with the notice within the period stated in the notice; and	12 13
(b) took reasonable steps to comply with the notice; and	14 15
(c) gave the advice sought in the notice as soon as practicable after the period for compliance stated in the notice.	16 17 18

Clause 14	Amendment of s 332 (What a surveillance device warrant authorises)	19 20
(1)	Section 332(3)(a) to (f)— <i>renumber</i> as section 332(3)(b) to (g).	21 22
(2)	Section 332(3)— <i>insert</i> —	23 24
	(a) the preparatory action reasonably necessary to facilitate the installation of the surveillance device, for example, inspecting and photographing the internal layout of premises; and	25 26 27 28 29

[s 15]

Clause 15	Amendment of s 382 (Notice to appear may be issued for offence)	1 2
	(1) Section 382(4), from ‘as provided’ to ‘or (b).’—	3
	<i>omit, insert—</i>	4
	in the way provided for under the <i>Justices Act 1886</i> ,	5
	section 56(2)(a), (b) or (c).	6
	(2) Section 382(4), note, from ‘56(2)(a)’ to ‘cases’—	7
	<i>omit, insert—</i>	8
	56(2)(a) to (c) authorise service	9
Clause 16	Amendment of s 445 (Who are <i>qualified persons</i>)	10
	Section 445(2), ‘doctor or dentist’—	11
	<i>omit, insert—</i>	12
	doctor, dentist or forensic nurse examiner	13
Clause 17	Amendment of s 463 (When forensic procedure order ends)	14 15
	Section 463(2), from ‘doctor’ to ‘section 509(3)’—	16
	<i>omit, insert—</i>	17
	doctor or forensic nurse examiner is performing an	18
	intimate forensic procedure under the order and the	19
	doctor or forensic nurse examiner decides to also	20
	perform a non-intimate procedure under section	21
	509(3) or 509A(3)	22
Clause 18	Amendment of s 481 (Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.)	23 24 25
	(1) Section 481(2), (4) and (6)—	26
	<i>omit.</i>	27
	(2) Section 481(3), ‘, with the approval of a senior officer,’—	28

omit. 1

(3) Section 481(5), ‘under an approval of a senior officer’— 2

omit. 3

(4) Section 481(3) and (5)— 4

renumber as section 481(2) and (3). 5

Clause 19 Amendment of s 482 (DNA sample notice) 6

(1) Section 482(2), ‘With the approval of a senior officer, a’— 7

omit, insert— 8

A 9

(2) Section 482(3) and (5)— 10

omit. 11

(3) Section 482(4)— 12

renumber as section 482(3). 13

Clause 20 Insertion of new s 488B 14

Chapter 17, part 5, division 4, before section 489— 15

insert— 16

488B Commissioner may enter into DNA arrangement 17
18

(1) The commissioner may enter into a contract or 19
other arrangement (each a **DNA arrangement**) 20
with 1 or both of the following about analysing 21
DNA under section 489— 22

(a) the chief executive (health); 23

(b) the chief executive officer, however 24
described, of an accredited laboratory. 25

(2) In this section— 26

[s 21]

accredited laboratory means a laboratory 1
accredited as complying with ISO/IEC 2
17025:2005 by— 3

(a) the National Association of Testing 4
Authorities, Australia; or 5

(b) another entity the commissioner is satisfied 6
is appropriately qualified to accredit a 7
laboratory for compliance with ISO/IEC 8
17025:2005. 9

ISO/IEC 17025:2005 means the standard titled 10
'ISO/IEC 17025: 2005—General requirements 11
for the competence of testing and calibration 12
laboratories', published jointly by the 13
International Organisation for Standardisation 14
and the International Electrotechnical 15
Commission. 16

**Clause 21 Amendment of s 489 (Power to analyse etc. DNA 17
samples) 18**
Section 489(1), from 'an arrangement' to '(health)'— 19
omit, insert— 20
a DNA arrangement 21

**Clause 22 Amendment of ch 17, pt 7, hdg (Forensic procedures 22
performed by doctors and dentists) 23**
Chapter 17, part 7, heading, 'doctors and dentists'— 24
omit, insert— 25
doctors, dentists and forensic nurse examiners 26

Clause 23 Amendment of s 501 (Application of pt 7) 27
(1) Section 501(1), 'doctor or dentist'— 28
omit, insert— 29

	doctor, dentist or forensic nurse examiner (each a <i>forensic examiner</i>)	1 2
(2)	Section 501(2) and (3), ‘doctor or dentist’— <i>omit, insert</i> — forensic examiner	3 4 5
Clause 24	Replacement of s 502 (When doctor or dentist may be asked to perform forensic procedure)	6 7
	Section 502— <i>omit, insert</i> —	8 9
	502 When forensic examiner may be asked to perform forensic procedure	10 11
	(1) A police officer may ask a forensic examiner to perform a forensic procedure on a person only if the performance of the procedure is authorised under a forensic procedure consent or a forensic procedure order.	12 13 14 15 16
	(2) The police officer may ask a forensic nurse examiner to perform the forensic procedure only if the forensic nurse examiner is the same sex as the person who is to undergo the procedure.	17 18 19 20
	(3) Subsection (2) does not apply if it is not reasonably practicable to ask a forensic nurse examiner of the same sex to perform the forensic procedure.	21 22 23 24
	(4) If the forensic procedure is to be performed under a forensic procedure order, the police officer must give the forensic examiner a copy of the order.	25 26 27 28
Clause 25	Amendment of s 503 (What person must be told before doctor or dentist performs a forensic procedure)	29 30
	Section 503, ‘doctor or dentist’—	31

[s 26]

omit, insert— 1
forensic examiner 2

Clause 26 Insertion of new s 509A 3

After section 509— 4

insert— 5

509A Forensic nurse examiner's powers 6

(1) This section applies if a police officer asks a forensic nurse examiner to perform a forensic procedure on a person under section 502. 7
8
9

(2) The forensic nurse examiner may perform a forensic procedure that may provide evidence of the commission of the offence to which the forensic procedure consent or forensic procedure order relates. 10
11
12
13
14

(3) If the forensic nurse examiner is performing an intimate forensic procedure and considers it reasonably necessary to also perform a non-intimate forensic procedure, the forensic nurse examiner may also perform a non-intimate forensic procedure on the person that may provide evidence of the commission of the offence. 15
16
17
18
19
20
21
22

(4) The forensic nurse examiner may act under subsection (3) whether or not it is necessary to do so to enable the forensic nurse examiner to perform the intimate forensic procedure. 23
24
25
26

Clause 27 Amendment of s 511 (Samples and results of analysis to be given to person) 27
28

(1) Section 511(1), 'doctor or dentist'— 29

omit, insert— 30

forensic examiner 31

	(2) Section 511(3), ‘doctor considers’—	1
	<i>omit, insert</i> —	2
	doctor or forensic nurse examiner considers	3
	(3) Section 511(3), ‘doctor may’—	4
	<i>omit, insert</i> —	5
	doctor or forensic nurse examiner may	6
	(4) Section 511(4), ‘doctor taking’—	7
	<i>omit, insert</i> —	8
	doctor or forensic nurse examiner taking	9
Clause 28	Amendment of s 517 (Help with, and use of force for, performing forensic procedure)	10
		11
	(1) Section 517(3), ‘the doctor or dentist’—	12
	<i>omit.</i>	13
	(2) Section 517(3)(b), ‘doctor or another dentist’—	14
	<i>omit, insert</i> —	15
	doctor, dentist or forensic nurse examiner	16
Clause 29	Amendment of s 577 (Complaint about noise)	17
	Section 577(1)—	18
	<i>omit, insert</i> —	19
	(1) A person may make a complaint, including an anonymous complaint, to a police officer about noise emitted from a place.	20
		21
		22
Clause 30	Amendment of s 578 (How to decide what is excessive noise—noise emitted from a place)	23
		24
	Section 578(1)(c), ‘the complainant’s’—	25
	<i>omit.</i>	26

[s 31]

Clause 31	Amendment of s 579 (How to decide what is excessive noise—noise emitted by motorbike driven on a place that is not a road)	1 2 3
	Section 579(1)(c), ‘the complainant’s’—	4
	<i>omit.</i>	5
Clause 32	Amendment of s 580 (How to decide what is excessive noise—noise emitted in other particular circumstances)	6 7
	Section 580(1)(c), ‘the complainant’s’—	8
	<i>omit.</i>	9
Clause 33	Amendment of s 582 (Compliance with noise abatement direction)	10 11
	(1) Section 582—	12
	<i>insert—</i>	13
	(3A) In a proceeding for an offence against this section, it is not necessary to prove the noise abatement direction was given in response to a complaint about noise made to a police officer.	14 15 16 17
	(2) Section 582(4), definition <i>noise abatement period</i> , paragraph (b), ‘12’—	18 19
	<i>omit, insert—</i>	20
	96	21
	(3) Section 582(3A) and (4)—	22
	<i>renumber</i> as section 582(4) and (5).	23
Clause 34	Amendment of s 583 (Additional powers of police officers on later investigation)	24 25
	Section 583(1)(b), ‘section 582(4)’—	26
	<i>omit, insert—</i>	27
	section 582(5)	28

Clause 35	Amendment of s 584 (Offence to interfere with locked etc. property)	1 2
	Section 584(2), from ‘within’ to ‘about’—	3
	<i>omit, insert</i> —	4
	during the noise abatement period, as defined under	5
	section 582(5), for	6
Clause 36	Amendment of s 585 (Recovery of seized property)	7
	Section 585(2), from ‘not earlier’—	8
	<i>omit, insert</i> —	9
	after the end of the noise abatement period, as defined	10
	under section 582(5), for the place where the property	11
	is found.	12
Clause 37	Amendment of s 718 (Order for forfeiture of particular relevant things)	13 14
	Section 718(4), from ‘given’—	15
	<i>omit, insert</i> —	16
	published on the police service website.	17
Clause 38	Amendment of s 719 (Order for forfeiture of relevant things connected with offences)	18 19
	Section 719(4)(a)—	20
	<i>omit, insert</i> —	21
	(a) must be—	22
	(i) given, in writing, to the owner of the	23
	thing, if the name and address of the	24
	owner is known; or	25
	(ii) if the name and address of the owner is	26
	not known, given to the person who	27
	appeared to have possession of the	28
	thing before it was seized; or	29

[s 39]

	(iii) otherwise, published on the police service website; and	1 2
Clause 39	Amendment of s 754 (Offence for driver of motor vehicle to fail to stop motor vehicle)	3 4
(1)	Section 754(2), ‘Minimum penalty—50 penalty units.’— <i>omit, insert—</i>	5 6
	Minimum penalty—50 penalty units or 50 days imprisonment served wholly in a corrective services facility.	7 8 9
(2)	Section 754— <i>insert—</i>	10 11
(3A)	If a court sentences a person to a term of imprisonment for an offence against subsection (2), the court must not fix a date for the person to be released on parole under the <i>Penalties and Sentences Act 1992</i> , section 160B, that reduces the minimum period of imprisonment the person must serve under subsection (2).	12 13 14 15 16 17 18
(3)	Section 754(3A) to (8)— <i>renumber</i> as section 754(4) to (9).	19 20
Clause 40	Amendment of s 783 (Sale of motor vehicle if not recovered after impounding ends)	21 22
	Section 783(2)— <i>omit, insert—</i>	23 24
(2)	Notice of the proposed sale or disposal must be published on the police service website.	25 26
Clause 41	Omission of s 805 (Availability of Act)	27
	Section 805— <i>omit.</i>	28 29

Clause 42	Amendment of sch 6 (Dictionary)	1
(1)	Schedule 6—	2
	<i>insert—</i>	3
	<i>account</i> , for chapter 7, part 7, see section 197A.	4
	<i>DNA arrangement</i> see section 488B(1).	5
	<i>forensic examiner</i> , for chapter 17, part 7, see section 501(1).	6 7
	<i>forensic nurse examiner</i> means a nurse who is appointed by the chief executive (health) to perform the role of a forensic nurse examiner.	8 9 10
	<i>senior police officer</i> , for chapter 7, part 7, see section 197A.	11 12
(2)	Schedule 6—	13
	<i>insert—</i>	14
	<i>associated</i> , with an event, for chapter 2, part 7, see section 53BD.	15 16
	<i>commissioner's reasonable costs</i> , for chapter 2, part 7, see section 53BD.	17 18
	<i>event authorisation</i> , for chapter 2, part 7, see section 53BE(1).	19 20
	<i>licensed event</i> , for chapter 2, part 7, see section 53BD.	21 22
	<i>organise</i> , an event, for chapter 2, part 7, see section 53BD.	23 24
	<i>out-of-control event power</i> , for chapter 2, part 7, see section 53BD.	25 26
(3)	Schedule 6, definition <i>enforcement act</i> —	27
	<i>insert—</i>	28
	(p) the exercise of out-of-control event powers under section 53BG.	29 30
(4)	Schedule 6, definition <i>event</i> —	31

[s 42]

<i>omit, insert—</i>	1
<i>event—</i>	2
(a) for chapter 2, part 3, see section 34; or	3
(b) for chapter 2, part 7, see section 53BB(1)(a).	4
(5) Schedule 6, definition <i>financial institution</i> , paragraph (b)—	5
<i>omit, insert—</i>	6
(b) for chapter 7, part 7, see section 197A; and	7
(c) for chapter 8, see section 198.	8
(6) Schedule 6, definition <i>parent—</i>	9
<i>omit, insert—</i>	10
<i>parent—</i>	11
1 for chapter 2, part 7, see section 53BD; or	12
2 of a person, for chapter 17—	13
(a) means a parent or guardian of the person; and	14 15
(b) includes—	16
(i) for an Aboriginal person, a person who, under Aboriginal tradition, is regarded as a parent of the person; or	17 18 19 20
(ii) for a Torres Strait Islander person, a person who, under Island custom, is regarded as a parent of the person; but	21 22 23 24
(c) does not include an approved carer of the person under the <i>Child Protection Act 1999</i> .	25 26 27
(7) Schedule 6, definition <i>senior police officer—</i>	28
<i>omit, insert—</i>	29
<i>senior police officer—</i>	30

-
- (a) for chapter 2, part 7, see section 53BD; or 1
(b) for chapter 7, part 7, see section 197A. 2
- (8) Schedule 6, definition *time out*, paragraph (k)(i), ‘doctor or 3
dentist’— 4
omit, insert— 5
doctor, dentist or forensic nurse examiner 6

Part 3 **Amendment of Evidence Act** 7 **1977** 8

- Clause 43** **Act amended** 9
This part amends the *Evidence Act 1977*. 10
- Clause 44** **Amendment of s 95A (DNA evidentiary certificate)** 11
- (1) Section 95A(4), ‘chief executive receives’— 12
omit, insert— 13
responsible person for the laboratory receives 14
- (2) Section 95A(4), ‘chief executive must’— 15
omit, insert— 16
responsible person must 17
- (3) Section 95A(5), ‘chief executive and’— 18
omit, insert— 19
responsible person and 20
- (4) Section 95A(9), definition *chief executive*— 21
omit. 22
- (5) Section 95A(9)— 23
insert— 24

[s 45]

- responsible person***, for a laboratory, means— 1
- (a) if the commissioner of the police service has 2
entered into a DNA arrangement with the 3
laboratory under the *Police Powers and 4*
Responsibilities Act 2000, section 5
488B(1)—the chief executive officer, 6
however described, of the laboratory; or 7
- (b) otherwise—the chief executive of the 8
department within which the *Hospital and 9*
Health Boards Act 2011 is administered. 10

Clause 45 Amendment of s 133A (DNA analysts) 11

Section 133A— 12

insert— 13

- (3) Subsection (4) applies if the commissioner of the 14
police service has entered into a DNA 15
arrangement with a laboratory under the *Police 16*
Powers and Responsibilities Act 2000, section 17
488B(1). 18
- (4) The chief executive officer, however described, 19
of the laboratory may, by written notice, appoint 20
an employee of the laboratory as a DNA analyst 21
if satisfied the employee has the necessary 22
qualifications and experience to be a DNA 23
analyst. 24
- (5) The appointment takes effect— 25
- (a) on the day the notice is given to the 26
employee; or 27
- (b) if a later day is stated in the notice, the later 28
day. 29