

TASMANIA

**FORENSIC PROCEDURES AMENDMENT BILL
2006**

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Part 4A inserted
 - PART 4A – Non-intimate Forensic Procedures on Police Officers and Members of the Police Service
 - 34A. Police officers may volunteer to undergo non-intimate forensic procedures
 - 34B. Requiring police officers and members of the Police Service to undergo non-intimate forensic procedures
 - 34C. Limit on use, &c., of forensic material taken under this Part
6. Section 51A inserted
 - 51A. Destruction of forensic material taken under section 34A or 34B
7. Section 53 amended (Use of information on DNA database system)
8. Part 8A inserted
 - PART 8A – Use of Information from Forensic Material of Police Officer or Member of the Police Service
 - 56A. Other use of information from forensic material of police officer or member of the Police Service
9. Section 58 amended (Database information)

10. Section 66A inserted
 - 66A. Savings and transitional provision

FORENSIC PROCEDURES AMENDMENT BILL 2006

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
27 August 2008

*(Brought in by the Minister for Justice and Workplace
Relations, the Honourable Steven Kons)*

A BILL FOR

An Act to amend the *Forensic Procedures Act 2000*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Forensic Procedures Amendment Act 2006*.

2. Commencement

This Act commences on a day to be proclaimed.

Forensic Procedures Amendment Act 2006
Act No. of

s. 3

3. Principal Act

In this Act, the *Forensic Procedures Act 2000** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “corresponding law”:

“crime scene” means –

- (a) a place where a serious offence was, or is reasonably suspected of having been, committed; and
- (b) a place or thing reasonably suspected of being associated with the commission of a serious offence;

- (b) by inserting the following definition after the definition of “medical practitioner”:

“member of the Police Service”
means –

*No. 101 of 2000

- (a) a person who holds the rank of Trainee or Junior Constable specified in section 4(2) of the *Police Service Act 2003*; or
- (b) an ancillary constable within the meaning of the *Police Service Act 2003*;

5. Part 4A inserted

After section 34 of the Principal Act, the following Part is inserted:

**PART 4A – NON-INTIMATE FORENSIC
PROCEDURES ON POLICE OFFICERS AND
MEMBERS OF THE POLICE SERVICE**

**34A. Police officers may volunteer to undergo
non-intimate forensic procedures**

- (1) A police officer may volunteer to undergo one or more of the following non-intimate forensic procedures carried out in accordance with this Act for the purpose of differentiating the officer's forensic material from other forensic material found at crime scenes generally or, if so specified by the officer, only at a particular crime scene:
 - (a) the taking of a sample of saliva;

Forensic Procedures Amendment Act 2006
Act No. of

s. 5

- (b) the taking of a sample by buccal swab.
- (2) The information obtained from an analysis of the forensic material taken from a police officer under subsection (1) may be used –
 - (a) with regard to crime scenes generally; or
 - (b) if so specified by the officer when volunteering to undergo the non-intimate forensic procedures under that subsection, with regard to the specified particular crime scene only.

34B. Requiring police officers and members of the Police Service to undergo non-intimate forensic procedures

- (1) The Commissioner of Police may require a police officer or member of the Police Service to undergo one or more of the following non-intimate forensic procedures carried out in accordance with this Act for the purpose of differentiating the police officer's or member's forensic material from other forensic material found at a particular crime scene specified by the Commissioner and which the officer or member has attended in the course of his or her duties:

Forensic Procedures Amendment Act 2006
Act No. of

s. 5

- (a) the taking of a sample of saliva;
 - (b) the taking of a sample by buccal swab.
- (2) A requirement under subsection (1) may be made even if the Commissioner of Police has made such a requirement in respect of that police officer or member of the Police Service previously.
- (3) The Commissioner of Police may require a member of the Police Service who was appointed as such after the commencement of this section to undergo one or more of the following non-intimate forensic procedures carried out in accordance with this Act for the purpose of differentiating the member's forensic material from other forensic material found at crime scenes generally:
- (a) the taking of a sample of saliva;
 - (b) the taking of a sample by buccal swab.

34C. Limit on use, &c., of forensic material taken under this Part

- (1) Despite any other provision of this Act –
- (a) if forensic material is taken from a police officer under section 34A(1) for the purpose of differentiating the officer's

Forensic Procedures Amendment Act 2006
Act No. of

s. 5

forensic material from forensic material found at a particular crime scene, as specified by the officer under that section, information obtained from an analysis of the officer's forensic material must not be matched with any information obtained from an analysis of any forensic material other than information obtained from an analysis of forensic material found at that particular crime scene; or

(b) if forensic material is taken from a police officer under section 34A(1), or from a member of the Police Service under section 34B(3), for the purpose of differentiating the officer or member's forensic material from forensic material found at crime scenes generally, information obtained from an analysis of the officer or member's forensic material must not be matched with any information obtained from an analysis of any forensic material other than information obtained from an analysis of forensic material found at a crime scene.

(2) Despite any other provision of this Act, information obtained from the analysis of forensic material taken from a police

officer or member of the Police Service under section 34B(1) must not be matched with any information obtained from an analysis of any forensic material other than information obtained from the analysis of forensic material found at the particular crime scene specified by the Commissioner under that section.

- (3) Forensic material taken from a police officer or member of the Police Service under section 34A or 34B, and any information obtained from an analysis of such forensic material –
 - (a) must not be used for the purposes of an internal Police Service investigation; and
 - (b) may not be received or admitted as evidence in any disciplinary proceeding, or proceeding for an offence, against the police officer or member of the Police Service.

6. Section 51A inserted

After section 51 of the Principal Act, the following section is inserted in Part 7:

51A. Destruction of forensic material taken under section 34A or 34B

- (1) Forensic material, and any information obtained from an analysis of forensic

Forensic Procedures Amendment Act 2006
Act No. of

s. 6

material, taken from a police officer under section 34A or 34B must be destroyed as soon as practicable after that police officer ceases to be a police officer.

- (2) Forensic material, and any information obtained from an analysis of forensic material, taken from a member of the Police Service under section 34B must be destroyed as soon as practicable –
 - (a) after that member ceases to be a member of the Police Service; or
 - (b) if the member ceases to be a member of the Police Service because he or she is appointed as a police officer, after he or she ceases to be a police officer.
- (3) Forensic material, and any information obtained from an analysis of forensic material, taken from a police officer or member of the Police Service under section 34A or 34B must be destroyed as soon as practicable after the officer or member has requested, in writing, the destruction of the forensic material.
- (4) Forensic material, and any information obtained from an analysis of forensic material, taken from a police officer or member of the Police Service under section 34A or 34B must be destroyed as soon as practicable after it is no longer

Forensic Procedures Amendment Act 2006
Act No. of

s. 7

required for the purpose for which it was taken.

7. Section 53 amended (Use of information on DNA database system)

Section 53(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (g) “Ombudsman.” and substituting “Ombudsman;”;
- (b) by inserting the following paragraph after paragraph (g):
 - (h) the purpose of a forensic comparison permitted under Part 4A.

8. Part 8A inserted

After section 56 of the Principal Act, the following Part is inserted:

**PART 8A – USE OF INFORMATION FROM
FORENSIC MATERIAL OF POLICE OFFICER OR
MEMBER OF THE POLICE SERVICE**

**56A. Other use of information from forensic
material of police officer or member of the
Police Service**

Information obtained from an analysis of forensic material taken from a police officer or member of the Police Service under section 34A or 34B may only be matched with other information obtained from a crime scene, whether or not that other information is in a database, if that matching is for the purpose of differentiating the forensic material of the officer or member from other forensic material found at any crime scene or a particular crime scene, being the purpose for which the forensic material was taken or directed to be taken from the officer or member.

9. Section 58 amended (Database information)

Section 58 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) This section does not apply to information obtained from an analysis of forensic material taken from a police

officer or member of the Police Service
under section 34A or 34B.

10. Section 66A inserted

After section 66 of the Principal Act, the
following section is inserted in Division 2:

66A. Savings and transitional provision

If before the commencement of the
Forensic Procedures Amendment Act
2006 a police officer or member of the
Police Service had forensic material
taken for the purpose of differentiating
that forensic material from other forensic
material found at a particular crime scene
or crime scenes generally, that forensic
material is taken to have been taken
under section 34A or 34B for that
purpose.