

TASMANIA

POLICE OFFENCES AMENDMENT BILL 2013

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POLICE OFFENCES AMENDMENT BILL 2013

(Brought in by the Minister for Police and Emergency Management, the Honourable David James O'Byrne)

A BILL FOR

An Act to amend the *Police Offences Act 1935*, the *Forensic Procedures Act 2000* and the *Law of Animals Act 1962*

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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Police Offences Amendment Act 2013*.

2. Commencement

This Act commences on a day to be proclaimed.

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PART 2 – POLICE OFFENCES ACT 1935 AMENDED

3. Principal Act

In this Part, the *Police Offences Act 1935** 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 *firearm*:

fireworks means a Type 2 fireworks, or Type 3 fireworks, within the meaning of the *Explosives Regulations 2012*;

- (b) by omitting paragraph (d) from the definition of *sexual offence* and substituting the following paragraph:

(d) an offence under section 8(1A)(a), section 21 or section 35(3) of this Act;

5. Section 7 amended (Loiterers, &c.)

Section 7 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (1)(b) “or an offence” after “crime”;
- (b) by inserting in subsection (2) “or an offence” after “intent to commit a crime”;
- (c) by inserting in subsection (2) “or an offence” after “was to commit a crime”;
- (d) by omitting subsections (3) and (4) and substituting the following subsections:
 - (3) If a police officer has reasonable grounds to believe that a person is contravening subsection (1), the police officer may, using such force, means and assistance as is reasonably necessary –
 - (a) detain and search that person; and
 - (b) seize any implement or instrument found on that person that the police officer considers could be used for an unlawful purpose or to commit a crime or an offence.
 - (4) On conviction of a person of an offence against subsection (1)(a) or (b), any implement or instrument seized under subsection (3)(b) is forfeited to the Crown.

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- (e) by omitting from subsection (5) “subsection (1) or (3)” and substituting “subsection (1)”.

6. Section 7A amended (Loitering near children)

Section 7A of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) If a police officer has reasonable grounds to believe that a person is contravening subsection (2), the police officer may, without warrant and using such force, means and assistance as is reasonably necessary –
 - (a) detain and search that person; and
 - (b) seize any implement or item found on that person that the police officer considers may have been used during the commission of the offence.
- (4) The court may, if it considers any implement or item that was seized under subsection (3)(b) may have been used during the commission of an offence against subsection (2), order that the implement or item be forfeited to the Crown.
- (5) The court may make an order against subsection (4) whether or not the person

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is convicted of an offence against subsection (2).

- (6) On conviction of a person of an offence against subsection (2), any implement or item seized under subsection (3)(b) is forfeited to the Crown.

7. Section 7B inserted

After section 7A of the Principal Act, the following section is inserted in Division I:

7B. Possession of implement or instrument

- (1) A person must not have in his or her possession without lawful excuse any implement or instrument with intent to commit a crime or an offence.
- (2) If a police officer has reasonable grounds to believe that a person is contravening subsection (1), the police officer may, without warrant and using such force, means and assistance as is reasonably necessary –
- (a) detain and search that person; and
 - (b) seize any implement or instrument found on that person that the police officer considers could be used to commit a crime or an offence.
- (3) A person who contravenes subsection (1) is guilty of an offence and is liable on

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summary conviction to a fine not exceeding 25 penalty units or imprisonment for a term not exceeding 6 months.

- (4) On conviction of a person of an offence against subsection (1) any implement or instrument seized under subsection (2) is forfeited to the Crown.
- (5) In proving under this section an intent to commit a crime or an offence, it is not necessary to show that the person charged was guilty of any particular act tending to show his or her intent and he or she may be convicted if, from the circumstances of the case and for his or her known character as proved to the court before which he or she is charged, it appears to the court that his or her intent was to commit a crime or an offence.

8. Section 8 amended (Begging, imposition, &c.)

Section 8(1)(a) of the Principal Act is amended as follows:

- (a) by omitting “alms” and substituting “money or other financial advantage”;
- (b) by omitting “a child” and substituting “another person”.

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9. Section 10 amended (Disorderly houses)

Section 10 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “, place of public resort”;
- (b) by omitting subsection (2) and substituting the following subsection:
 - (2) If a police officer has reasonable grounds to believe that an offence against subsection (1A) is being or has been committed in any house, shop, room or other premises, the police officer may –
 - (a) without warrant and using such force, means and assistance as is reasonably necessary, enter the house, shop, room or other premises; and
 - (b) may direct any person found at any house, shop, room or other premises to leave that house, shop, room or other premises and not return for a specified period of not less than 12 hours.
- (c) by inserting the following subsections after subsection (4):

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- (5) Subsection (2)(b) does not apply to the owner or tenant of any house, shop, room or other premises.
- (6) A person who refuses or fails to comply with a direction from a police officer under subsection (2)(b) is guilty of an offence and liable to a fine not exceeding 20 penalty units.

10. Section 12 amended (Prohibited language and behaviour)

Section 12(1)(d) of the Principal Act is amended by omitting “with intent or”.

11. Section 13 amended (Public annoyance)

Section 13 of the Principal Act is amended as follows:

- (a) by inserting the following subsections after subsection (3):
 - (3AAA) If a police officer has reasonable grounds to believe that a person is contravening or has contravened subsection (1)(f) or subsection (2), the police officer may without warrant and using such force, means and assistance as is reasonably necessary –

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(a) detain and search that person; and

(b) seize –

(i) in relation to a contravention under subsection (1)(f), any firework found on that person; and

(ii) in relation to a contravention of subsection (2), any missile found on that person.

(3AAB) On conviction of a person of an offence against subsection (1)(f) or subsection (2) any firework or missile seized under subsection (3AAA)(b) is forfeited to the Crown.

(b) by omitting subsection (5AB).

12. Section 13A amended (Observation or recording in breach of privacy)

Section 13A of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

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- (2) A person who observes or visually records another person's genital or anal region, in circumstances where a reasonable person would expect to be afforded privacy in relation to that region, when the observation or visual recording is made for the purpose of observing or visually recording the other person's genital or anal region is guilty of an offence.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (2A) It is a defence to proceedings for an offence against subsection (2) for the defendant to provide evidence that the observation or visual recording was carried out with the consent of the person observed or recorded.
- (2B) If a police officer has reasonable grounds to believe that a person is contravening or has contravened subsection (1) or (2), the police officer may without warrant and using such force, means and assistance as is reasonably necessary –
- (a) detain and search that person; and
 - (b) seize any visual recording, item or instrument found on that person that the police officer considers could be used for

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observing or visually recording
contrary to subsection (1) or (2).

- (2C) The court may, if it considers any visual recording, item or instrument that was seized under subsection (2B)(b) may have been used during the commission of an offence against subsection (1) or (2), order that the visual recording, item or instrument be forfeited to the Crown.
- (2D) The court may make an order under subsection (2C) whether or not the person is convicted of an offence against subsection (1) or (2).
- (2E) On conviction of a person of an offence against subsection (1) or (2), any visual recording, item or instrument seized under subsection (2B)(b) is forfeited to the Crown.

13. Section 13B amended (Publishing or distributing prohibited visual recording)

Section 13B of the Principal Act is amended as follows:

- (a) by inserting the following subsections after subsection (1):
 - (1A) If a police officer has reasonable grounds to believe that a person is contravening or has contravened subsection (1), the police officer may without warrant and using

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such force, means and assistance
as is reasonably necessary –

- (a) detain and search that person; and
 - (b) seize any prohibited visual recording, item or instrument found on that person that the police officer considers could be used for publishing or distributing contrary to subsection (1).
- (1B) The court may, if it considers any prohibited visual recording, item or instrument that was seized under subsection (1A)(b) may have been used during the commission of an offence against subsection (1), order that the prohibited visual recording, item or instrument be forfeited to the Crown.
- (1C) The court may make an order under subsection (1B) whether or not the person is convicted of an offence against subsection (1).
- (1D) On conviction of a person of an offence against subsection (1), any prohibited visual recording, item or instrument seized under

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subsection (1A)(b) is forfeited to the Crown.

- (b) by inserting the following definition after the definition of *distribute* in subsection (2):

genital or anal region, of a person, has the same meaning as in section 13A;

14. Section 13C amended (Possession of prohibited visual recording)

Section 13C of the Principal Act is amended by inserting after subsection (1) the following subsections:

- (1A) If a police officer has reasonable grounds to believe that a person is contravening subsection (1), the police officer may, without warrant and using such force, means and assistance as is reasonably necessary –
- (a) detain and search that person; and
 - (b) seize any prohibited visual recording found on that person or any item or instrument found on that person that the police officer considers could be used for storing a prohibited visual recording.

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- (1B) The court may, if it considers any prohibited visual recording that was seized under subsection (1A)(b) may have been used during the commission of an offence against subsection (1), order that the prohibited visual recording be forfeited to the Crown.
- (1C) The court may make an order under subsection (1B) whether or not the person is convicted of an offence against subsection (1).
- (1D) On conviction of a person of an offence against subsection (1), any prohibited visual recording seized under subsection (1A)(b) is forfeited to the Crown.

15. Section 14B amended (Unlawful entry on land)

Section 14B of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) “10” and substituting “50”;
- (b) by omitting from subsection (2)(b) “5” and substituting “25”;
- (c) by omitting from subsection (2C) “Minister” and substituting “Commissioner”;
- (d) by omitting subsection (5) and substituting the following subsection:

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- (5) If a police officer has reasonable grounds to believe that a person is contravening subsection (1), the police officer may without warrant and using such force, means and assistance as is reasonably necessary –
- (a) detain and search that person; and
 - (b) seize any firearm found on that person.

16. Sections 15 and 15A repealed

Sections 15 and 15A of the Principal Act are repealed.

17. Section 18 amended (Discharge of distress signals)

Section 18(1) of the Principal Act is amended by inserting “or electronic device” after “flare” in the definition of *distress signal*.

18. Section 19A amended (Sports venues)

Section 19A of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

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- (1) A person must not enter the reserved area of a sports venue without lawful excuse.
- (b) by omitting from subsection (1A) “fails to leave” and substituting “enters”;
- (c) by omitting from subsection (1A) “ground” and substituting “venue”;
- (d) by omitting from subsection (1A)(c) “conducted –” and substituting “conducted.”;
- (e) by omitting from subsection (1A) “when requested to do so by that police officer.”;
- (f) by omitting from subsection (1B) “subsection (1)” and substituting “subsection (1A)”;
- (g) by omitting from subsection (1B)(a) “ground is or will be” and substituting “venue is, will be or has been”;
- (h) by omitting “ground” from the definition of *reserved area* in subsection (2) and substituting “venue”;
- (i) by omitting the definition of *sports ground* from subsection (2) and substituting the following definition:

sports venue means a public place to which the public are admitted, whether on payment or otherwise,

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to view a game or sport played or conducted on the reserved area of that sports venue.

19. Section 20AA repealed

Section 20AA of the Principal Act is repealed.

20. Section 21A substituted

Section 21A of the Principal Act is repealed and the following section is substituted:

21A. Unlawfully administering drug, &c.

- (1) Any person who, without lawful and reasonable excuse, administers or causes another person to take, without that person's consent, any drug, liquor or other thing which is likely to impair the consciousness or bodily function of the other person is guilty of an offence.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) If a police officer has reasonable grounds to believe that a person is contravening or has contravened subsection (1), the police officer may without warrant and using such force, means and assistance as is reasonably necessary –
- (a) detain and search that person; and

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- (b) seize any drug, liquor or other thing found on the person that the police officer believes is likely to impair the consciousness or bodily function of another person.
- (3) The court may, if it considers any drug, liquor or other thing that was seized under subsection (2)(b) may have been used during the commission of an offence against subsection (1), order that the drug, liquor or other thing be forfeited to the Crown.
- (4) The court may make an order under subsection (3) whether or not the person is convicted of an offence against subsection (1).
- (5) On conviction of a person of an offence against subsection (1), any drug, liquor or other thing seized under subsection (2)(b) is forfeited to the Crown.

21. Section 34B amended (Resistance to, and obstruction of, public officers prohibited)

Section 34B of the Principal Act is amended as follows:

- (a) by omitting from subsection (1A) “50” and substituting “100”;
- (b) by omitting from subsection (1A) “2” and substituting “3”;

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- (c) by inserting in subsection (2)(a) “or an emergency service worker” after “officer”;
- (d) by omitting from subsection (2A) “25” and substituting “50”;
- (e) by omitting from subsection (2A) “12 months” and substituting “2 years”;
- (f) by omitting subsection (4) and substituting the following subsection:

(4) In this section –

emergency service worker
means –

- (a) a person employed or appointed under the *Fire Service Act 1979*; or
- (b) a person employed or appointed under the *Ambulance Service Act 1982*; or
- (c) an emergency management worker referred to in paragraph (a), (b), (c) or (d) of the definition of *emergency management*

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worker in section
3 of the
Emergency
Management Act
2006; or

(d) an emergency
management
worker referred to
in paragraph (e) of
the definition of
emergency
management
worker in section
3 of the
Emergency
Management Act
2006 in relation
to –

(i) an authorised
use of
emergency
powers under
section 40 of
the
Emergency
Management
Act 2006; or

(ii) a declared
state of
emergency
under section
42 of the
Emergency

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*Management
Act 2006;*

public officer includes any person acting in good faith in the execution, or intended execution, of an Act or a public duty or authority.

22. Section 35 amended (Common assault and aggravated assault)

Section 35(5) of the Principal Act is amended by omitting “under subsection (3)” and substituting “against this section”.

23. Section 35A inserted

After section 35 of the Principal Act, the following section is inserted in Part III:

35A. Tattooing, body piercing and body modification

(1) In this section –

body branding means the process by which a mark, symbol or pattern is, by burning or cauterizing, applied to a person’s skin;

body implantation means the implanting of an object beneath the skin;

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body modification procedure means –

- (a) tattooing; and
- (b) body branding; and
- (c) body implantation; and
- (d) earlobe stretching; and
- (e) tongue splitting; and
- (f) body scarification; and
- (g) any other procedure prescribed for the purposes of this paragraph;

body piercing means the piercing of part of a person's body to create one or more holes for the insertion of an object;

body scarification means the cutting of a person's skin to encourage the production of scar tissue;

genitalia includes surgically constructed genitalia;

guardian, of a youth, means a parent or legal guardian of the youth;

intimate body piercing means the piercing of a person's genitalia, anal region, perineum, nipples or uvula;

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youth means a person who is less than 18 years of age.

- (2) This section does not apply to a body piercing or body modification procedure performed on a person if the procedure is performed –
- (a) in the course of medical treatment; or
 - (b) for a medical or therapeutic purpose of a kind prescribed by the regulations.
- (3) A person must not perform a body modification procedure on a youth.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months.

- (4) A person must not perform –
- (a) an intimate body piercing on a youth; or
 - (b) any other body piercing on a youth without the consent, in writing, of the youth's guardian.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months.

- (5) Subsection (4)(b) does not apply if the youth on whom the body piercing is to be performed is at least 16 years old.

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(6) It is a defence to a charge of an offence against subsection (3), (4)(a) or (4)(b) to prove that –

(a) the defendant, or some person acting on behalf of the defendant, required the youth, or another person, to produce evidence in writing of –

(i) his or her age; or

(ii) the consent of his or her guardian to the carrying out of the relevant procedure –

as the case requires; and

(b) the youth, or another person, made a false statement, or produced false evidence in response to that requirement; and

(c) in consequence, the defendant reasonably believed that –

(i) the youth was of or above the requisite age; or

(ii) the guardian consented to the carrying out of the relevant procedure –

as the case requires.

(7) A person who seeks to rely on the defence in subsection (6) must, in order

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to rely on the defence, produce the identifying details, or a copy, of the evidence offered at the time of the alleged offence.

24. Section 37 amended (Offences relating to property)

Section 37 of the Principal Act is amended as follows:

- (a) by omitting subsection (4);
- (b) by omitting from subsection (5) “subsection (4) or (4A)” and substituting “subsection (4A)”;
- (c) by inserting the following subsection after subsection (5):
 - (6) A complaint made for the purposes of the *Justices Act 1959* in relation to an offence against subsection (1) is to be made within 12 months after the date of the offence.

25. Sections 37AAA and 37AA inserted

After section 37 of the Principal Act, the following sections are inserted in Part IV:

37AAA. Interference with war memorials

- (1) A person must not interfere with a war memorial.

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Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 12 months.

(2) In this section –

interfere, with a war memorial, includes –

- (a) destroy, damage, move or mark it; and
- (b) otherwise deal with it in a way that is likely to cause offence to a reasonable person.

(3) A complaint made for the purposes of the *Justices Act 1959* in relation to an offence against subsection (1) is to be made within 12 months after the date of the offence.

37AA. Unlawfully setting fire to property

(1) A person who unlawfully sets fire to any property, and causes damage to the property not exceeding \$5 000 in value, is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) In subsection (1) –

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property includes all property and vegetation to which Chapter XXXI of Part VI of the *Criminal Code* applies.

- (3) A complaint made for the purposes of the *Justices Act 1959* in relation to an offence against subsection (1) is to be made within 12 months after the date of the offence.

26. Section 37I substituted

Section 37I of the Principal Act is repealed and the following section is substituted:

37I. Tampering with vehicles

- (1) A person must not unlawfully tamper or interfere with a motor vehicle or trailer.

Penalty: Fine not exceeding 20 penalty units.

- (2) If a police officer has reasonable grounds to believe that a person is contravening or has contravened subsection (1), the police officer may without warrant and using such force, means and assistance as is reasonably necessary –
- (a) detain and search that person; and
 - (b) seize any tools, equipment or materials found on that person that the police officer believes

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have been used in the
commission of the offence.

- (3) On conviction of a person of an offence against subsection (1), any tools, equipment or materials seized under subsection (2)(b) are forfeited to the Crown.

27. Section 37J amended (Excessive noise, smoke, &c., from vehicles)

Section 37J(1)(b) of the Principal Act is amended by omitting “exhibition” and substituting “unnecessary execution”.

28. Section 37K amended (Interpretation of Division)

Section 37K(1) of the Principal Act is amended as follows:

- (a) by inserting “and its keys” after “a vehicle” in the definition of *confiscated vehicle*;
- (b) by inserting “and its keys” after “vehicle” in the definition of *forfeiture order*.

29. Section 37N amended (Clamping and confiscation of vehicles)

Section 37N of the Principal Act is amended as follows:

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- (a) by inserting in subsection (1)(b) “and its keys” after “vehicle”;
- (b) by inserting in subsection (2) “and its keys” after “confiscate the vehicle”;
- (c) by inserting in subsection (2) “and the keys confiscated” after “confiscated”;
- (d) by inserting in subsection (3)(d) “and its keys” after “vehicle”;
- (e) by omitting from subsection (6) “that has been found by a police officer to have been”;
- (f) by inserting in subsection (6)(b) “and its keys” after “vehicle”;
- (g) by inserting in subsection (8) “and its keys” after “that vehicle”.

30. Section 37O amended (Period of clamping or confiscation for first prescribed offence)

Section 37O(1)(b) of the Principal Act is amended by omitting “found offending in respect of a prescribed offence by a police officer” and substituting “proceeded against by way of complaint under the *Justices Act 1959* in respect of a prescribed offence”.

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31. Section 37P amended (Period of clamping or confiscation for second prescribed offence)

Section 37P(1)(b) of the Principal Act is amended by omitting “found offending in respect of a prescribed offence by a police officer on one occasion” and substituting “proceeded against by way of complaint under the *Justices Act 1959* in respect of a prescribed offence on one occasion”.

32. Section 37Q amended (Period of clamping or confiscation for third or subsequent prescribed offence)

Section 37Q of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “found offending in respect of a prescribed offence by a police officer on 2 or more occasions” and substituting “proceeded against by way of complaint under the *Justices Act 1959* in respect of a prescribed offence on 2 or more occasions”;
- (b) by omitting subsection (2) and substituting the following subsection:
 - (2) The vehicle used in connection with the new prescribed offence may be clamped or confiscated until –

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- (a) the resolution of all existing charges against the person for those prescribed offences; and
- (b) the determination of any forfeiture order made to the Court under section 37Y.

33. Section 37SA amended (Unlawful interference with clamped vehicle, &c.)

Section 37SA of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “subsection (3)” and substituting “subsection (2) or (3)”; and
- (b) by inserting the following subsections after subsection (5):
 - (6) The owner of a clamped vehicle may arrange for the vehicle to be transported to another location.
 - (7) If a clamped vehicle is transported to another location, the owner of the vehicle must notify a police officer, within 3 days after the day on which it is transported to the other location, of the new location of the vehicle.

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Part 2 – Police Offences Act 1935 Amended

Penalty: Fine not exceeding 10
penalty units.

**34. Section 37T amended (Notice of clamping or
confiscation to be given)**

Section 37T of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) A police officer may amend a notice given under subsection (1) by changing the authorised period for which a vehicle is clamped or confiscated –
 - (a) in relation to a first prescribed offence, to a period not exceeding the period specified in section 37P; and
 - (b) in relation to a second prescribed offence, until the resolution of all existing charges against the person for the prescribed offences and the determination of any forfeiture order made to the Court under section 37Y.
- (4) A police officer is to give the amended notice to the owner of the vehicle within 14 days of the date on which the notice was amended.

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35. Section 37Y amended (Application for forfeiture of vehicles)

Section 37Y of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:

- (2) A police officer or any person prosecuting or who prosecuted a complaint in respect of a prescribed offence may, on the date of the conviction or at any time during the 14-day period immediately following the date of the conviction, apply to the Court –
 - (a) for a forfeiture order in respect of the vehicle; or
 - (b) for the imposition of a monetary penalty not exceeding 100 penalty units on the offending driver.
- (3) If the Court is satisfied that the offending driver has been convicted of a prescribed offence on 3 or more occasions, inclusive of the conviction referred to in subsection (1)(c), the Court may –
 - (a) make the forfeiture order; or
 - (b) impose a monetary penalty not exceeding 100 penalty units on the offending driver.

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Part 2 – Police Offences Act 1935 Amended

36. Section 37Z amended (Defence to show no knowledge and consent)

Section 37Z(1) of the Principal Act is amended by inserting “or” after “clamped”.

37. Section 37ZA amended (Powers for enforcing forfeiture order)

Section 37ZA of the Principal Act is amended as follows:

- (a) by omitting “under section 37Y(7)”;
- (b) by omitting “may” first occurring and substituting “is to”.

38. Section 37ZD amended (Unclamping or recovery of vehicle clamped or confiscated for second or subsequent prescribed offence)

Section 37ZD of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (3A) A person who fails or refuses to comply with a condition imposed under subsection (3) is guilty of an offence and liable on summary conviction to a fine not exceeding 20 penalty units.

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39. Section 37ZH amended (Disposal of confiscated vehicle)

Section 37ZH(2)(b) of the Principal Act is amended by inserting “if the registered operator can be found” after “operator”.

40. Section 37ZJ amended (Voluntary transfer of ownership of vehicle to Crown)

Section 37ZJ(1) of the Principal Act is amended by omitting “the end of” and substituting “any time during”.

41. Section 37ZK substituted

Section 37ZK of the Principal Act is repealed and the following section is substituted:

37ZK. Clamped or confiscated vehicle not to be sold or disposed of

A person must not –

- (a) sell or otherwise dispose of a clamped or confiscated vehicle;
or
- (b) tamper with, interfere with or alter a clamped or confiscated vehicle –

during the authorised period of clamping or confiscation or whilst the vehicle is subject to a Court order under this Act.

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Part 2 – Police Offences Act 1935 Amended

Penalty: Fine not exceeding 50 penalty units.

42. Section 38 inserted

Before section 38A of the Principal Act, the following section is inserted in Part V:

38. Taking property not exceeding \$500 in value

- (1) Any person who steals anything not exceeding \$500 in value is guilty of an offence.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 3 months.

- (2) Sections 226, 227, 228, 229, 230 and 231 of the *Criminal Code* apply to an offence against subsection (1) as if the offence were the crime of stealing under the *Criminal Code Act 1924*.

43. Section 39 amended (Possession of stolen property)

Section 39(1) of the Principal Act is amended by inserting “, or have had possession or control of,” after “of”.

44. Sections 39A and 40 repealed

Sections 39A and 40 of the Principal Act are repealed.

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45. Section 44A amended (False reports to police)

Section 44A of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):
 - (1AA) A person must not, falsely and with knowledge of the falsity of his or her statement, represent to any person that an act has been done, or that any circumstances have occurred, which as so represented are reasonably likely to cause that person to notify the police and it is reasonably likely that the police will investigate the act or circumstances.
- (b) by omitting from subsection (1A) “subsection (1)” and substituting “subsection (1) or (1AA)”;
- (c) by omitting from subsection (1A) “10” and substituting “100”;
- (d) by omitting from subsection (1A) “6” and substituting “12”.

46. Section 47 amended (Interpretation)

Section 47 of the Principal Act is amended by omitting the definition of *accident* and substituting the following definition:

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crash has the same meaning as in the *Road Rules 2009*;

47. Section 49 amended (Power of Commissioner of Police to grant permit)

Section 49(6) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a)(ii) “accident” and substituting “crash”;
- (b) by omitting from paragraph (a)(iii) “accident” and substituting “crash”;
- (c) by omitting “accident” third occurring and substituting “crash”.

48. Section 55 amended (Arrest)

Section 55 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2D) “section 13A, 13B, 13C, 21, 21A or 35” and substituting “section 13A, section 13B, section 13C, section 15CA, section 21, section 21A, section 35, section 37AA(1), section 37B, section 37S(1) or (2), section 37SA(2) or (3), section 37ZC(6) or (7), section 37ZD(3A) or (4) or section 38”;
- (b) by omitting subsection (2G).

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49. Section 55A substituted

Section 55A of the Principal Act is repealed and the following section is substituted:

55A. Names and addresses of offenders

- (1) If a police officer becomes aware that, or has reasonable grounds for believing that, a person has committed or is committing an offence, the police officer may require that person to state his or her name and address.
- (2) If a police officer becomes aware that, or has reasonable grounds for believing that, a person is likely to commit an offence against section 15B, the police officer may require that person to state his or her name and address.
- (3) A person who fails or refuses to comply with a requirement referred to in subsection (1) or (2) or, in response to such a requirement, states a name or address that is false, is guilty of an offence and is liable on summary conviction to a penalty not exceeding 10 penalty units.
- (4) A police officer making a requirement under subsection (1) or (2) may arrest, without warrant, a person who fails or refuses to comply with that requirement or who, in response to the requirement, gives a name or address that the police officer has reason to believe is false.

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Part 2 – Police Offences Act 1935 Amended

50. Section 57B repealed

Section 57B of the Principal Act is repealed.

51. Section 58A amended (Power to search for liquor)

Section 58A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “section 25” and substituting “section 13(1), (2), (2A), (2B), (2C) or (3), section 25 or section 26”;
- (b) by inserting in subsection (3) “in relation to an offence against section 13(1), (2) or (3), section 25 or 26” after “subsection (1)”.

52. Part VII, Division IV: Heading amended

Division IV of Part VII of the Principal Act is amended by omitting “*Liquor infringement*” from the heading to that Division and substituting “*Infringement*”.

53. Section 61 amended (Infringement notices)

Section 61 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “section 25 or section 26” and substituting “section 12(1)(a), (b), (c) or (d), section 13(1)(a), (b), (c), (d), (e) or (f), (2), (4),

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(6) or (7), section 14B, section 15B, section 15CA(1) or (4), section 16(1) or (2), section 19A(1), section 25(2) or (3), section 37G(1), section 37GA(3), section 37JA, section 38(1), section 41, section 48, section 49AB(1) or (8) or section 49B”;

- (b) by omitting from subsection (1) “liquor” and substituting “an”;
- (c) by omitting from subsection (2) “A liquor” and substituting “An”.

54. Section 63B amended (Declaration of serious incident site)

Section 63B of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “An officer” and substituting “A police officer”;
- (b) by omitting from subsection (9) “crime scene” and substituting “serious incident site”.

55. Section 67A amended (Evidentiary provision)

Section 67A of the Principal Act is amended by omitting “section 25” and substituting “section 13(2A), (2B) or (2C), section 25 or section 26”.

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Part 2 – Police Offences Act 1935 Amended

56. Section 68 amended (Procedure for seized firearms)

Section 68 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3)(b)(ii) “Minister” and substituting “Commissioner”;
- (b) by omitting from subsection (3)(c)(ii) “Minister” and substituting “Commissioner”;
- (c) by omitting from subsection (3)(d) “Minister” and substituting “Commissioner”;
- (d) by omitting from subsection (4)(b)(ii) “Minister” and substituting “Commissioner”;
- (e) by omitting from subsection (4)(c)(ii) “Minister” and substituting “Commissioner”.

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Part 3 – Forensic Procedures Act 2000 Amended

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**PART 3 – FORENSIC PROCEDURES ACT 2000
AMENDED**

57. Principal Act

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

58. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting “section 13A, 13B, 13C, 21, 21A, 34B, 35, 37, 37B or 39 of the *Police Offences Act 1935*” from paragraph (b) of the definition of *serious offence* and substituting “section 13A, 13B, 13C, 21, 21A, 34B, 35, 37, 37AA(1), 37B, 38(1) or 39 of the *Police Offences Act 1935*”.

*No. 101 of 2000

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Part 4 – Law of Animals Act 1962 Amended

PART 4 – LAW OF ANIMALS ACT 1962 AMENDED

59. Principal Act

In this Part, the *Law of Animals Act 1962** is referred to as the Principal Act.

60. Section 7A inserted

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

7A. Rescue and illegal impounding of distress damage feasant

A person who –

- (a) impounds or detains any animal unlawfully; or
- (b) rescues any animal impounded or seized for the purpose of impounding –

as a distress damage feasant is guilty of an offence and is liable on summary conviction to a penalty not exceeding 3 penalty units.

*No. 70 of 1962

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Part 5 – Repeal of Act

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PART 5 – REPEAL OF ACT

61. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.