

# TASMANIA

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## **POLICE LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2019**

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**POLICE LEGISLATION MISCELLANEOUS  
AMENDMENTS BILL 2019**

*(Brought in by the Minister for Police, Fire and Emergency  
Management, the Honourable Mark David Shelton)*

**A BILL FOR**

**An Act to amend the *Community Protection (Offender Reporting) Act 2005*, the *Police Offences Act 1935*, the *Police Powers (Vehicle Interception) Act 2000* and the *Road Safety (Alcohol and Drugs) Act 1970***

Be it enacted by Her 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 Legislation Miscellaneous Amendments Act 2019*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

*Police Legislation Miscellaneous Amendments Act 2019*  
*Act No. of 2019*

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**PART 2 – COMMUNITY PROTECTION (OFFENDER  
REPORTING) ACT 2005 AMENDED**

**3. Principal Act**

In this Part, the *Community Protection (Offender Reporting) Act 2005\** is referred to as the Principal Act.

**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended by inserting after the definition of *community order* the following definition:

*community protection order* has the meaning given to that term in section 3A;

**5. Section 3A inserted**

After section 3 of the Principal Act, the following section is inserted in Part 1:

**3A. Community protection order**

For the purposes of this Act, a community protection order includes each of the following orders:

- (a) a community protection order made, and in force, under section 10A;

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\*No. 61 of 2005

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- (b) an interim community protection order made, and in force, under section 10B;
- (c) an order made and in force in a State or Territory, or in New Zealand, that corresponds, or substantially corresponds, with an order made under section 10A or 10B.

**6. Section 33A amended (Failure to comply with community protection order)**

Section 33A of the Principal Act is amended as follows:

- (a) by omitting “reportable offender” twice occurring and substituting “person”;
- (b) by omitting “under section 10A”.

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Part 3 – Police Offences Act 1935 Amended

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**PART 3 – POLICE OFFENCES ACT 1935 AMENDED**

**7. Principal Act**

In this Part, the *Police Offences Act 1935*\* is referred to as the Principal Act.

**8. Section 37K amended (Interpretation of Division)**

Section 37K(1) of the Principal Act is amended by inserting after paragraph (d) in the definition of *prescribed offence* the following paragraph:

(da) against section 167A, 167B or 172A of the *Criminal Code*; or

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

Section 37O(1)(b) of the Principal Act is amended by omitting “complaint under the *Justices Act 1959*” and substituting “a complaint, or indictment,”.

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

Section 37P(1)(b) of the Principal Act is amended by omitting “complaint under the *Justices Act 1959*” and substituting “a complaint, or indictment,”.

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\*No. 44 of 1935

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

Section 37Q(1)(b) of the Principal Act is amended by omitting “complaint under the *Justices Act 1959*” and substituting “a complaint, or indictment,”.

**12. Section 47 amended (Interpretation)**

Section 47 of the Principal Act is amended by omitting “*Road Rules 2009*” from the definition of *crash* and substituting “*Road Rules*”.

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Part 4 – Police Powers (Vehicle Interception) Act 2000 Amended

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**PART 4 – POLICE POWERS (VEHICLE  
INTERCEPTION) ACT 2000 AMENDED**

**13. Principal Act**

In this Part, the *Police Powers (Vehicle Interception) Act 2000*\* is referred to as the Principal Act.

**14. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended by inserting after the definition of *function* the following definition:

*oral fluid* has the same meaning as in the *Road Safety (Alcohol and Drugs) Act 1970*;

**15. Section 11A amended (Evading police)**

Section 11A(2A)(c)(ii) of the Principal Act is amended by omitting “breath” and substituting “oral fluid”.

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\*No. 46 of 2000



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**PART 5 – ROAD SAFETY (ALCOHOL AND DRUGS)**  
**ACT 1970 AMENDED**

**16. Principal Act**

In this Part, the *Road Safety (Alcohol and Drugs) Act 1970\** is referred to as the Principal Act.

**17. Section 27A inserted**

After section 27 of the Principal Act, the following section is inserted in Division 1:

**27A. Certificate in relation to taking of certain oral fluid samples**

- (1) In any proceedings to which this Division applies, a certificate –
  - (a) stating that, on the day and at the time stated in the certificate, the person by whom the certificate purports to be signed took a sample of the oral fluid of the person named therein for the purpose of oral fluid analysis; and
  - (b) stating that, when that sample was so taken, the person by whom the certificate purports to be signed was an approved operator; and

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\*No. 77 of 1970

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Part 5 – Road Safety (Alcohol and Drugs) Act 1970 Amended

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- (c) containing particulars of the manner in which the sample was taken or of any action taken by that person consequent upon, or in relation to, the taking of that sample –

is admissible in those proceedings and is *prima facie* evidence of the particulars contained in the certificate.

- (2) In any proceedings to which this Division applies, a certificate –

- (a) stating that, at a particular time and place, a container containing a part of a sample of oral fluid was delivered, by the person by whom the certificate purports to be signed –

- (i) to the person named in the certificate and stated therein to be an approved analyst; or

- (ii) to a person authorised by an approved analyst to receive the sample; and

- (b) containing particulars with respect to the container or any label or marks thereon; and

- (c) containing particulars with respect to the manner in which it

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was kept or otherwise dealt with  
before being so delivered; and

- (d) stating that the person by whom it  
was so delivered was at that time  
a police officer –

is admissible in those proceedings and is  
*prima facie* evidence of the matters  
stated in the certificate.

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Part 6 – Repeal of Act

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**PART 6 – REPEAL OF ACT**

**18. Repeal of Act**

This Act is repealed on the first anniversary of the day on which it commenced.