

# TASMANIA

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## POLICE OFFENCES AMENDMENT BILL 2007

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# **POLICE OFFENCES AMENDMENT BILL 2007**

*(Brought in by the Minister for Police and Emergency Management, the Honourable David Edward Llewellyn)*

## **A BILL FOR**

**An Act to amend the *Police Offences Act 1935*, the *Community Protection (Offender Reporting) Act 2005*, the *Forensic Procedures Act 2000*, the *Motor Accidents (Liabilities and Compensation) Act 1973* and the *Parliament House 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 2007*.

### **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 7 amended (Loiterers, &c.)**

Section 7(3) of the Principal Act is amended by omitting “any pick-lock key or any implement of housebreaking or have in his possession any instrument whatever” and substituting “any implement or instrument”.

**5. Sections 13A, 13B, 13C and 13D inserted**

After section 13 of the Principal Act, the following sections are inserted in Division I:

**13A. Observation or recording in breach of privacy**

(1) A person who observes or visually records another person, in circumstances where a reasonable person would expect to be afforded privacy –

(a) without the other person’s consent; and

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(b) when the other person –

(i) is in a private place; or

(ii) is engaging in a private act and the observation or visual recording is made for the purpose of observing or visually recording a private act –

is guilty of an offence.

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

(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 –

(a) without the other person's consent; and

(b) 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.

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

(3) In subsection (2) –

**“genital or anal region”**, of a person, means the person’s genital or anal region when that region is covered only by underwear or bare.

**13B. Publishing or distributing prohibited visual recording**

(1) A person who publishes or distributes a prohibited visual recording of another person having reason to believe it to be a prohibited visual recording, without lawful and reasonable excuse (proof of which lies on the first-mentioned person), is guilty of an offence.

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

(2) In this section –

**“distribute”** includes –

(a) communicate, exhibit, send, supply or transmit to someone, whether to a particular person or not; and



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- (b) make available for access by someone, whether by a particular person or not; and
- (c) enter into an agreement or arrangement to do anything mentioned in paragraph (a) or (b); and
- (d) attempt to distribute;

**“prohibited visual recording”** of another person means –

- (a) a visual recording of the person in a private place or engaging in a private act made in circumstances where a reasonable adult would expect to be afforded privacy; or
- (b) a visual recording of the person’s genital or anal region, when it is covered only by underwear or bare, made in circumstances where a reasonable adult would expect to be afforded privacy in relation to that region.

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**13C. Possession of prohibited visual recording**

- (1) A person who has in his or her possession a prohibited visual recording having reason to believe it to be a prohibited visual recording is guilty of an offence.

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

- (2) In this section –

“**prohibited visual recording**” has the same meaning as in section 13B.

**13D. Persons who are not criminally responsible for an offence under section 13A or 13B**

- (1) A person is not criminally responsible for an offence under section 13A or 13B if –
- (a) the person is, at the time of the offence, a law enforcement officer acting in the course of the person’s duties as such an officer; and
  - (b) the person’s conduct is reasonable in the circumstances for the performance of those duties.
- (2) A person is not criminally responsible for an offence under section 13A or 13B in

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relation to an observation or visual recording of another person who is in lawful custody if –

- (a) the person is, at the time of the offence, acting in the course of the person's duties in relation to the other person's lawful custody; and
  - (b) the person's conduct is reasonable in the circumstances for the performance of the duties.
- (3) A person is not criminally responsible for an offence under section 13A or 13B if –
- (a) the person is, at the time of the offence, acting in the course of the person's occupation or employment; and
  - (b) the person's conduct is reasonable in the circumstances for the performance of the occupation or employment.
- (4) The onus of proving the matter or thing referred to in paragraphs (a) and (b) of subsection (3) lies on the person referred to in those paragraphs.

**6. Section 18 inserted**

After section 17 of the Principal Act, the following section is inserted in Division II:

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**18. Discharge of distress signals**

(1) In this section –

**“distress signal”** means a flare that is normally used to signal distress.

(2) A person must not, without reasonable excuse, discharge a distress signal.

Penalty: Fine not exceeding 30 penalty units.

(3) A person is not guilty of an offence under subsection (2) if the distress signal was discharged –

(a) for an emergency; or

(b) with the approval of the Marine and Safety Authority (established under the *Marine and Safety Authority Act 1997*); or

(c) with the approval of a police officer of or above the rank of inspector.

**7. Part II, Divisions III and IIIA inserted**

After section 20AA of the Principal Act, the following Divisions are inserted in Part II:

*Division III – Fortifications*

**20A. Interpretation**

(1) In this Part –

**“fortification”** means any structure or device that, whether alone or as part of a system, is designed to prevent or impede, or to provide any other form of countermeasure against, uninvited entry to premises;

**“fortification warning notice”** means a fortification warning notice issued under section 20B;

**“heavily fortified”** has the meaning given by subsection (2);

**“owner”**, in relation to premises, includes a person who the Commissioner reasonably believes leases or otherwise occupies the premises;

**“submission”** means a submission made by an owner to the Commissioner that a fortification removal notice should not be issued;

**“submission period”** has the meaning given by section 20C(2)(b).

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- (2) Premises are heavily fortified if there are, at the premises, fortifications to an extent or of a nature that it would be reasonable to regard as excessive for premises of that kind.

**20B. Fortification warning notice, issue of**

- (1) The Commissioner may, without giving notice to any other person, apply to a magistrate for the issue of a fortification warning notice.
- (2) A magistrate, to whom an application under subsection (1) is made, may issue a fortification warning notice if satisfied on the balance of probabilities that there are reasonable grounds for suspecting that the premises to which the application relates are heavily fortified.
- (3) The magistrate may be satisfied by a statement made by a police officer and verified by statutory declaration.

**20C. Fortification warning notice, contents of**

- (1) A fortification warning notice is addressed to the owner of the premises to which it relates, or each owner if there are 2 or more, by name.
- (2) The notice must contain –

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- (a) a brief summary of section 20B(2), including an explanation of the terms “fortification” and “heavily fortified”, and a statement that the magistrate is satisfied as to the matters mentioned in that provision; and
- (b) a warning that, unless, within the period of 14 days after the day on which the notice is given as described in section 20D(1) (the “**submission period**”), the Commissioner is satisfied that the premises are not heavily fortified, a fortification removal notice may be issued under section 20F; and
- (c) an explanation of how a person who is an owner can make a submission to the Commissioner that a fortification removal notice should not be issued; and
- (d) details of the effect of a fortification removal notice.

**20D. Giving fortification warning notice**

- (1) A fortification warning notice is to be given –
  - (a) by giving it to the owner of the premises to which it relates; or

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- (b) if it appears that any reasonable attempt to give it as described in paragraph (a) is unlikely to be successful, by affixing it to the front entrance or another part of the premises where it can be easily seen.
- (2) If the notice is not given as described in subsection (1) within 14 days after the magistrate issues it, the notice lapses and is not to be given at all.

**20E. Withdrawal notice**

- (1) If, before the end of the submission period for a fortification warning notice given under section 20D(1), the Commissioner decides not to issue a fortification removal notice under section 20F, the Commissioner is to give a withdrawal notice to the owner of the premises to which the fortification warning notice relates.
- (2) The withdrawal notice must identify the premises, refer to the fortification warning notice, and state that the Commissioner has decided not to issue a fortification removal notice.
- (3) The withdrawal notice may be given in any way in which section 20D permits a fortification warning notice to be given.



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**20F. Fortification removal notice, issue of**

- (1) If a fortification warning notice has been given as described in section 20D(1) and the submission period has elapsed, the Commissioner may issue a fortification removal notice relating to the premises concerned.
- (2) The Commissioner is not to issue the fortification removal notice unless, after considering each submission, if any, made before the submission period elapsed, the Commissioner reasonably believes that the premises are heavily fortified.
- (3) A fortification removal notice is not to be issued if –
  - (a) a period of more than 28 days has elapsed since the end of the submission period; or
  - (b) the Commissioner has given the owner of the premises concerned a withdrawal notice referring to the fortification warning notice.

**20G. Fortification removal notice, contents of**

- (1) A fortification removal notice referred to in section 20F must contain –
  - (a) a statement to the effect that, within 7 days after the day on

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which the notice is given to the owner of the premises or any further period allowed by the Commissioner, the fortifications at the premises must be removed or modified to the extent necessary to satisfy the Commissioner that the premises are no longer heavily fortified; and

- (b) a warning as to the effect of section 20I; and
  - (c) an explanation of the right of the owner to apply to the magistrate who issued the fortification warning notice for a review under section 20J.
- (2) The notice may, but need not, include details as to what would need to be done before the Commissioner would be satisfied that the premises are no longer heavily fortified.

**20H. Giving fortification removal notice**

- (1) A fortification removal notice issued under section 20F is to be given to the owner of the premises concerned.
- (2) The notice may be given in any way in which section 20D permits a fortification warning notice to be given.

**20I. Fortification removal notice, enforcement of**

- (1) If, after a fortification removal notice is given under section 20H, the fortifications at the premises concerned are not, within the period specified in the fortification removal notice or any further period allowed by the Commissioner, removed or modified to the extent necessary to satisfy the Commissioner that the premises are no longer heavily fortified, the Commissioner may cause the fortifications to be removed or modified to the extent required by the fortification removal notice.
- (2) The Commissioner may extend the period allowed by the notice if, before that period elapses, application is made to the Commissioner for it to be extended.
- (3) The Commissioner under subsection (1) may authorise police officers together with such other persons as the police officers require, without warrant or further notice, to enter the premises and secure them in order to do anything for the purposes of that subsection, and to use any force and employ any equipment necessary.
- (4) The Commissioner may seize anything that can be salvaged in the course of removing or modifying fortifications

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under this section, and may sell or dispose of it by public auction or public tender as the Commissioner considers appropriate.

- (5) The proceeds of any sale under subsection (4) are forfeited to the State and, to the extent that they are insufficient to meet the costs incurred by the Commissioner under this section, the Commissioner may recover those costs as a debt due from the owner of the premises.

**20J. Review of fortification removal notice**

- (1) If a fortification removal notice relating to premises has been issued under section 20F, the owner of the premises may, within 7 days after the day on which the notice is given to the owner, apply to the magistrate who issued the fortification warning notice for a review of whether, having regard to the submissions, if any, made before the submission period elapsed and any other information that the Commissioner took into consideration, the Commissioner could have reasonably held the belief required by section 20F(2) when issuing the notice.
- (2) The Commissioner may identify as confidential any information provided to the magistrate for the purposes of the

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review if its disclosure might be prejudicial to law enforcement, and information so identified is for the magistrate's use only and must not be disclosed to any other person, whether or not a party to the proceedings, or publicly disclosed in any way.

- (3) An application for review under this section cannot be made if an application has previously been made by any person for the review of the same matter.
- (4) When the application for review is made, the period within which fortifications can be removed or modified in accordance with the fortification removal notice is extended to the seventh day after the day on which the application for review is finally disposed of by the magistrate.
- (5) The magistrate may decide whether or not the Commissioner could have reasonably held the belief required by section 20F(2) when issuing the notice.
- (6) If the magistrate decides that the Commissioner could not have reasonably held the belief required by section 20F(2) when issuing the notice, the notice ceases to have effect.

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**20K. Hindering removal or modification of fortifications**

- (1) A person who does anything intending to prevent, obstruct or delay the removal or modification of fortifications in accordance with a fortification removal notice issued under section 20F is guilty of an offence.

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

- (2) Subsection (1) applies to the removal or modification of fortifications by a person who –
- (a) is, or is acting for or on the instructions of, the owner; or
  - (b) is acting under section 20I.

**20L. Planning and other approval issues**

- (1) The powers given by this Division may be exercised without regard to whether any statutory or other approval has been given for the fortifications.
- (2) No statutory or other approval is required for the removal or modification of fortifications in accordance with a fortification removal notice issued under section 20F.

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- (3) Subsection (2) applies to the removal or modification of fortifications by a person who is acting under section 20I.

**20M. No compensation for removal or modification of fortifications**

- (1) No claim for compensation lies against a person for having approved any fortifications that are, or are required to be, removed or modified because of a notice under this Division.
- (2) No other claim for compensation arises because of the exercise of powers under this Division.
- (3) Subsection (2) does not extend to prevent claims in tort in relation to premises other than those in respect of which the fortification removal notice is given under section 20H.

**20N. Protection from liability for wrongdoing**

- (1) An action in tort does not lie against a person for damage to property at the premises that the person causes, in good faith, in the performance or purported performance of a function under this Division.
- (2) The Crown is also relieved of any liability that it might otherwise have had

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for a person having caused damage as described in subsection (1).

- (3) The protection given by this section applies even though the damage was caused in the course of doing something that would have been capable of being done whether or not this Division had been enacted.

***Division IIIA – Prohibited behaviour***

**21. Prohibited behaviour**

A person must not, wilfully and without reasonable excuse, do any act or behave in a manner that a reasonable person is likely to find indecent or offensive in all the circumstances, if that person knew or should have known that his or her conduct was being, or may have been, viewed by another person.

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

**21A. Unlawfully administering drug, &c.**

Any person who, without lawful and reasonable excuse, administers or causes another person to take a drug, liquor or other thing which is likely to impair the consciousness or bodily function of the



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other person without the other person's consent is guilty of an offence.

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

**8. Section 25 amended (Consumption of liquor in streets, &c.)**

Section 25 of the Principal Act is amended by inserting after subsection (5) the following subsection:

- (6) Regulations made for the purpose of this section may provide that a public place specified in the regulations is to be taken to be a public place to which this section applies only during specified periods and at specified times within those periods and, where the regulations so provide, this section applies in relation to that public place accordingly.

**9. Section 37N amended (Confiscation of vehicles)**

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

- (a) by omitting subsections (1) and (2) and substituting the following subsections:

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- (1) A police officer who finds a person committing a prescribed offence involving a vehicle may –
    - (a) confiscate the vehicle;  
and
    - (b) have the vehicle moved to a holding yard and held in accordance with this Division.
  - (2) Where a police officer finds a person committing a prescribed offence involving a vehicle and does not confiscate the vehicle at the time of finding the person committing the prescribed offence, a police officer may confiscate the vehicle, not later than 10 days after the commission of the prescribed offence.
- (b) by inserting the following subsections after subsection (5):
- (6) A police officer may, without warrant and using such reasonable force or means as is necessary, enter any place where the police officer reasonably suspects that a vehicle that has been found by a police officer to have been used in the commission of a prescribed

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offence may be located, and confiscate the vehicle and have it moved to a holding yard and held in accordance with this Division.

- (7) A police officer may only exercise the authority conferred by subsection (6) within 10 days after the commission of the prescribed offence.
- (8) The owner, registered operator or person having charge of a vehicle that has been found by a police officer to have been used in the commission of a prescribed offence must, on the demand of any police officer, take that vehicle to a place specified by the police officer.
- (9) Where a vehicle has been taken to a place specified by a police officer, it is to be held in accordance with this Division.
- (10) Where a vehicle has been taken to a place specified by a police officer that is not a holding yard, it may be taken to a holding yard and held in accordance with this Division.
- (11) Where any person is alleged to have committed a prescribed

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offence as the driver of any vehicle –

- (a) the owner or registered operator of the vehicle, on demand by any police officer, must give to the police officer all such information as the police officer may require as to the identity and whereabouts of the driver of the vehicle at any time relevant to the charge; and
- (b) if any information so required is not known to the owner or registered operator, he or she must as soon as possible with all reasonable diligence (proof of which lies on that person) take steps to obtain the information, and must report to the police officer within 7 days, or sooner if practicable, the result of the steps so taken; and
- (c) upon demand being made to any person by a police officer for any information within the person's knowledge as to the identity of the driver

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of the vehicle, or as to any fact which may lead to the identification of the driver, the person must give the information to the police officer.

- (12) If any person fails to comply with subsection (8) or any of the requirements of subsection (11) he or she is guilty of an offence.

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

**10. Section 37O amended (Period of confiscation for first prescribed offence)**

Section 37O of the Principal Act is amended by omitting “48 hours” and substituting “7 days”.

**11. Section 37P amended (Period of confiscation for second prescribed offence)**

Section 37P of the Principal Act is amended by omitting “on one or 2 occasions”.

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

Section 37Q of the Principal Act is amended by omitting “3 or more occasions” and substituting “more than 2 occasions”.

**13. Section 44A amended (False reports to police)**

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

- (a) by inserting in subsection (1) “or any person employed in the Department” after “officer”;
- (b) by omitting from subsection (2) “by any police officer”.

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

Section 47 of the Principal Act is amended as follows:

- (a) by omitting “person;” from the definition of “motor-vehicle race” and substituting “person.”;
- (b) by omitting the definition of “reliability trial”.

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**15. Section 48 amended (No motor-vehicle race to be held without a permit)**

Section 48(1) of the Principal Act is amended by omitting “or reliability trial”.

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

Section 49 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “or reliability trial”;
- (b) by omitting from subsection (1)(a) “or trial”;
- (c) by omitting from subsection (2) “or trial”;
- (d) by omitting subsections (3A), (4) and (5) and substituting the following subsections:
  - (4) No permit granted under this section authorising the holding of a motor-vehicle race is of any effect unless there is in force in relation to that race a policy of insurance that complies with the requirements of this section.
  - (5) Subject to subsection (6), in order to comply with the requirements

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of this section a policy of insurance must be a policy that –

- (a) the Motor Accidents Insurance Board confirms is issued by an insurer, or arranged by a broker, authorised by the Australian Prudential Regulation Authority to provide, or renew, insurance in Australia; and
- (b) provides for insurance covering liability in respect of any person taking part in the motor-vehicle race jointly and each of them severally (including liability for costs) that may be incurred by any such person, whether jointly with any other person or severally –
  - (i) in respect of the death or bodily injury to any person caused by or arising out of the use of a motor-vehicle which is competing or taking part in that



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motor-vehicle  
race; and

- (ii) where the race takes place on any public road or thoroughfare, insurance covering damage or injury to any property other than a motor-vehicle competing or taking part in a race arising from such use.
- (e) by omitting from subsection (6)(a)(i) “\$10 000” and substituting “the prescribed amount”;
- (f) by omitting from subsection (6)(a)(ii) “\$100 000” and substituting “the prescribed amount”;
- (g) by omitting from subsection (6)(a)(iii) “\$100 000” and substituting “the prescribed amount”;
- (h) by inserting the following subsection after subsection (8):
- (9) The Motor Accidents Insurance Board is not liable for any action, liability, claim or demand in respect of any act or omission

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done in good faith under  
subsection (5).

**17. Section 55 amended (Arrest)**

Section 55 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (c) in subsection (1):
  - (ca) section 20K; or
- (b) by omitting from subsection (2D) “section 35” and substituting “section 13A, 13B, 13C, 21, 21A or 35”.

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**PART 3 – COMMUNITY PROTECTION (OFFENDER REPORTING) ACT 2005 AMENDED**

**18. Principal Act**

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

**19. Schedule 1 amended (Class 1 offences)**

Schedule 1 to the Principal Act is amended as follows:

(a) by inserting after

Section 233BAB

Special offences relating to tier 2 goods (if the offence involves items of child pornography or of child exploitation material)

the following item:

*Criminal Code Act 1995* of the Commonwealth

Section 474.19

Using a carriage service to access child pornography material

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\*No. 61 of 2005

*Police Offences Amendment Act 2007*  
*Act No. of*

s. 19

Part 3 – Community Protection (Offender Reporting) Act 2005 Amended

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Section 474.20

Using a carriage service to cause child pornography material to be transmitted

Using a carriage service to transmit child pornography material

Using a carriage service to make child pornography material available

Using a carriage service to access child pornography material

Using a carriage service to publish or otherwise distribute child pornography material

Possessing child pornography material for use through a carriage service

Producing child pornography material for use through a carriage service

Supplying child pornography material for use through a carriage service

Obtaining child pornography material for use through a carriage service

*Police Offences Amendment Act 2007*  
*Act No. of*

Part 3 – Community Protection (Offender Reporting) Act 2005 Amended

**s. 19**

Section 474.22

Using a carriage service to access child abuse material

Using a carriage service to cause child abuse material to be transmitted

Using a carriage service to transmit child abuse material

Using a carriage service to make child abuse material available

Using a carriage service to access child abuse material

Using a carriage service to publish or otherwise distribute child abuse material

Section 474.23

Possessing child abuse material for use through a carriage service

Producing child abuse material for use through a carriage service

Supplying child abuse material for use through a carriage service

Obtaining child abuse material for use through a carriage service

*Police Offences Amendment Act 2007*  
*Act No. of*

**s. 19**      Part 3 – Community Protection (Offender Reporting) Act 2005 Amended

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Section 474.26	Using a carriage service to procure persons under 16 years of age
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Section 474.27	Using a carriage service to “groom” persons under 16 years of age
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(b) by inserting after

Section 8(1A)(a)	Exposing person
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the following item:

Section 13A	Observation or recording in breach of privacy
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Section 13B	Publishing or distributing prohibited visual recording
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Section 13C	Possession of prohibited visual recording
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*Police Offences Amendment Act 2007*  
*Act No. of*

Part 4 – Forensic Procedures Act 2000 Amended

s. 20

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**PART 4 – FORENSIC PROCEDURES ACT 2000  
AMENDED**

**20. Principal Act**

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

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

Section 3(1) of the Principal Act is amended by omitting “section 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, 21A, 34B, 35, 37, 37B or 39 of the *Police Offences Act 1935*”.

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\*No. 101 of 2000

*Police Offences Amendment Act 2007*  
*Act No. of*

s. 22                      Part 5 – Motor Accidents (Liabilities and Compensation) Act 1973  
Amended

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**PART 5 – MOTOR ACCIDENTS (LIABILITIES AND  
COMPENSATION) ACT 1973 AMENDED**

**22. Principal Act**

In this Part, the *Motor Accidents (Liabilities and Compensation) Act 1973\** is referred to as the Principal Act.

**23. Section 14 amended (General liability of Board in respect of motor accidents)**

Section 14(4)(a) of the Principal Act is amended by omitting “(not being a motor vehicle race that takes place on a beach)”.

**24. Section 24 amended (Exclusions from scheduled benefits)**

Section 24(1)(d) of the Principal Act is amended by omitting “(not being a motor vehicle race that takes place on a beach)”.

**25. Section 28B amended (Recovery by Board of scheduled benefits)**

Section 28B of the Principal Act is amended by inserting after subsection (6) the following subsection:

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\*No. 71 of 1973



*Police Offences Amendment Act 2007*  
*Act No. of*

Part 5 – Motor Accidents (Liabilities and Compensation) Act 1973 Amended

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s. 25

- (7) The Board may recover from an insurer, confirmed under section 49(5) of the *Police Offences Act 1935*, who issued the policy of insurance in respect of a motor vehicle race, any benefits payable to a person who suffers personal injury from a motor vehicle accident arising out of, or in the course of, that motor vehicle race.