

TASMANIA

FORENSIC PROCEDURES AMENDMENT BILL 2006

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**FORENSIC PROCEDURES AMENDMENT BILL
2006**

*(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.

3. Principal Act

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

*No. 101 of 2000

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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 –

- (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 any crime scenes the officer may attend in the course of his or her duties or, if so specified by the officer, at a particular crime scene which the officer has attended in the course of his or her duties:
 - (a) the taking of a sample of saliva;
 - (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 –

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- (a) with regard to any crime scenes attended by the officer in the course of his or her duties; 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 attended by the officer in the course of his or her duties.

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:
 - (a) the taking of a sample of saliva;
 - (b) the taking of a sample by buccal swab.

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- (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 which the member may attend, or has attended, in the course of his or her training or duties either as a member or, if the member ceases to be a member of the Police Service because he or she is appointed as a police officer, as a police officer:
 - (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

Despite any other provision of this Act, forensic material, and information obtained from an analysis of forensic material, taken from a police officer or

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member of the Police Service under this Part may only be accessed, disclosed and used for the purpose for which it was taken.

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 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.

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- (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 has been used for the purpose for which it was taken.

7. Section 52 amended (Supply of forensic material)

Section 52(1) of the Principal Act is amended by omitting paragraph (c) from the definition of “approved forensic material” and substituting:

- (c) taken in accordance with Part 3, 4 or 4A –
 - (i) from a prescribed offender, a volunteer, a police officer or a member of the Police Service; or
 - (ii) under a corresponding law of a participating jurisdiction; or

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8. Section 54 amended (Permissible matching of DNA profiles)

Section 54 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) In the table in subsection (1), “**volunteers (limited purposes)**” includes police officers and members of the Police Service who have had forensic material taken under section 34A or 34B.

9. Part 8A inserted

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

**PART 8A – OTHER 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 for which that forensic material was taken.

10. 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.

11. 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.