

## CLAUSE NOTES

### *Police Legislation (Miscellaneous Amendments) Bill 2016*

#### Background:

The Bill introduces legislation to enhance several existing provisions within the *Police Offences Act 1935* and the *Police Service Act 2003*.

#### PART 1 – PRELIMINARY

**Clause 1: Short title**  
Specifies the name of the proposed Act.

**Clause 2: Commencement**  
Specifies that the Act commences on the day it receives the Royal Assent.

#### PART 2 – POLICE OFFENCES ACT 1935 AMENDED

**Clause 3: Principal Act**  
Specifies that in this Part, the *Police Offences Act 1935* is referred to as the Principal Act.

**Clause 4: Section 3 amended (Interpretation)**  
Section 3 of the Act is amended by adding a knife to the items listed in the definition of dangerous article.

**Clause 5: Section 15C amended (Dangerous articles)**  
This clause amends subsection 15C(1) by inserting '(proof of which lies on the person)' after 'excuse'. This clarifies that it is up to an individual possessing, carrying or using a dangerous article (now also including a knife) in a public place to prove the lawfulness of their possession, carriage or use. Where they do so, they are not subject to the offence provisions.

The clause also amends subsection 15C(4) by adding 'religious observance' to the listed lawful excuses. This clarifies that an individual possessing, carrying or using a dangerous article in a public place, as part of their religious observance, does not commit an offence. This provision is being added to clarify that the carriage of Kirpans by practicing Sikhs is lawful, but provides a similar exemption for any genuine religious observance by any religion.

**Clause 6: Section 61 amended (Infringement notices)**

This clause amends subsection 61(1) by inserting 'section 26(1) or (2),' after '(3)'. The effect of this is to allow infringement notices to be issued for the offences of supplying liquor to a youth at a private place (unless authorised) and supplying liquor inconsistent with the responsible supervision of the youth.

It had previously been possible for police to issue infringement notices for these offences. However, amendments to the *Police Offences Act 1935* in late 2014, that expanded the range of offences under the Act for which infringement notices could be issued, inadvertently left out these two offences. This amendment corrects that error, although subsequent amendment to the *Police Offences Regulations 2014* will also be required.

**PART 2 – POLICE SERVICE ACT 2003 AMENDED**

**Clause 7: Principal Act**

Specifies that in this Part, the Police Service Act 2003 is referred to as the Principal Act.

**Clause 8: Section 3 amended (Interpretation)**

This clause deletes the definition of qualified person from the interpretation provisions in section 3. This definition applied to persons qualified to take blood samples from police officers for the purpose of occupational drug and alcohol testing. Clause 9 reintroduces the definition into section 50 of the Act to consolidate the occupational drug and alcohol testing provisions.

**Clause 9: Section 50 amended (Testing for alcohol and drugs)**

This clause amends section 50 of the Act to provide for the use of a screening test in occupational drug testing, prior to collection of samples of saliva, urine or blood, for testing for the presence of any drug, and removes the requirement in subsection 50(6) that samples of saliva, urine or blood be divided into three parts. In addition, the clause makes several amendments to the wording and structure of section 50 to simplify and improve the clarity of the occupational drug and alcohol testing provisions.

Subsection 50(1) is replaced with a new subsection that separates out definitions that were previously included within the body of the text of section 50, and consolidates these with the definition of *qualified person* that was previously contained in section 3.

The previous subsections (1) and (2) are now consolidated within a new subsection (2), providing for both random testing of on duty police officers, and testing of police officers involved in serious incidents. A new subsection (2A) clarifies that no suspicion of drug or alcohol use is required prior to testing being undertaken, and the new subsection (2B) clarifies that multiple samples may be collected. This allows

for a sample or samples to be taken for the purposes of a screening test, and for additional samples to be taken for laboratory testing, if required.

#### PART 4 – REPEAL OF ACT

##### Clause 10: Repeal of Act

This clause provides that the *Police Legislation (Miscellaneous Amendments) Act 2016* is repealed on the three hundred and sixty fifth day from the day on which it commences.