

TASMANIA

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**POLICE LEGISLATION (MISCELLANEOUS  
AMENDMENTS) BILL 2016**

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# **POLICE LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2016**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
5 May 2016

*(Brought in by the Minister for Police and Emergency  
Management, the Honourable Marinus Theodoor Hidding)*

## **A BILL FOR**

**An Act to amend the *Police Offences Act 1935* and the  
*Police Service Act 2003***

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 2016*.

### **2. Commencement**

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

*Police Legislation (Miscellaneous Amendments) Act 2016*  
*Act No. of*

s. 3

Part 2 – Police Offences Act 1935 Amended

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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)**

The definition of *dangerous article* in section 3(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “weapon;” and substituting “weapon; and”;
- (b) by inserting the following paragraph after paragraph (c):
  - (d) a knife;

**5. Section 15C amended (Dangerous articles)**

Section 15C of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “(proof of which lies on the person)” after “excuse”;
- (b) by omitting from subsection (4)(d) “intended.” and substituting “intended;”;

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\*No. 44 of 1935

*Police Legislation (Miscellaneous Amendments) Act 2016*  
*Act No. of*

Part 2 – Police Offences Act 1935 Amended

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(c) by inserting the following paragraph after paragraph (d) in subsection (4):

(e) religious observance.

**6. Section 61 amended (Infringement notices)**

Section 61(1) of the Principal Act is amended by inserting “section 26(1) or (2),” after “(3),”.

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*Act No. of*

s. 7

Part 3 – Police Service Act 2003 Amended

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**PART 3 – POLICE SERVICE ACT 2003 AMENDED**

**7. Principal Act**

In this Part, the *Police Service Act 2003*\* is referred to as the Principal Act.

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

Section 3 of the Principal Act is amended by omitting the definition of *qualified person*.

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

Section 50 of the Principal Act is amended as follows:

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

(1) In this section –

*on duty* includes reporting for duty, being on standby for duty and being on availability for duty;

*qualified person* means –

- (a) a medical practitioner; or  
(b) a registered nurse or enrolled nurse;

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\*No. 75 of 2003

*Police Legislation (Miscellaneous Amendments) Act 2016*  
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***serious incident*** means an incident involving a police officer on duty and in which any person is killed or seriously injured;

***testing*** means testing for the presence of any alcohol or drug.

- (2) The Commissioner or an authorised person may require any police officer who is on duty or involved in a serious incident to do any one or more of the following:
- (a) provide a sample or samples of breath for testing;
  - (b) provide a sample or samples of urine or oral fluid for testing;
  - (c) with the consent of the police officer, permit a sample or samples of blood to be taken by a qualified person for testing.
- (2A) Subsection (2) has effect whether or not the Commissioner or authorised person has grounds for suspecting that the relevant police

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Part 3 – Police Service Act 2003 Amended

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officer has recently consumed any alcohol or taken any drug.

(2B) To avoid doubt, where the Commissioner or an authorised person considers it necessary to do so, a requirement under subsection (2) may be made of a police officer more than once in respect of the same instance of that police officer being on duty or the same serious incident.

- (b) by omitting from subsection (3) “an incident referred to in subsection (2)” and substituting “a serious incident”;
- (c) by inserting in subsection (3) “or samples” after “require a sample”;
- (d) by inserting in subsection (3) “for testing” after “the hospital”;
- (e) by omitting from subsection (3)(a) “undergo a breath test or submit to a breath analysis” and substituting “provide a sample of breath for testing”;
- (f) by omitting from subsection (3)(b) “saliva” and substituting “oral fluid for testing”;
- (g) by inserting in subsection (3)(c) “for testing” after “blood”;
- (h) by omitting from subsection (4) “saliva from a police officer under subsection (1)



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or (2)” and substituting “oral fluid pursuant to subsection (2)”;

(i) by omitting subsection (6) and substituting the following subsection:

(6) For the purposes of this section –

(a) where a single sample is taken for testing and the testing is to be done in a laboratory, the sample is to be divided into 2 approximately equal parts, one of which is to be tested and the other is to be the control sample; and

(b) where 2 samples are taken on the one occasion for testing and the testing is to be done in a laboratory, one sample is to be tested and the other sample is to be the control sample.

(j) by omitting from subsection (7) “is” and substituting “or samples has or have been”;

(k) by omitting from subsection (7) “analysed” and substituting “tested”;

(l) by omitting from subsection (9) “analysis of a sample” and substituting “testing of a sample taken or”.

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*Act No. of*

s. 10

Part 4 – Repeal of Act

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**PART 4 – REPEAL OF ACT**

**10. Repeal of Act**

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