

TASMANIA

**POLICE LEGISLATION MISCELLANEOUS
AMENDMENTS BILL 2019**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

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

3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 3A inserted
 - 3A. Community protection order
6. Section 33A amended (Failure to comply with community protection order)

PART 3 – POLICE OFFENCES ACT 1935 AMENDED

7. Principal Act
8. Section 37K amended (Interpretation of Division)
9. Section 37O amended (Period of clamping or confiscation for first prescribed offence)
10. Section 37P amended (Period of clamping or confiscation for second prescribed offence)
11. Section 37Q amended (Period of clamping or confiscation for third or subsequent prescribed offence)

12. Section 47 amended (Interpretation)

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

13. Principal Act
14. Section 3 amended (Interpretation)
15. Section 11A amended (Evading police)

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

16. Principal Act
17. Section 27A inserted
 - 27A. Certificate in relation to taking of certain oral fluid samples

PART 6 – REPEAL OF ACT

18. Repeal of Act

POLICE LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2019

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*
12 November 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

s. 3 Part 2 – Community Protection (Offender Reporting) Act 2005 Amended

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;

*No. 61 of 2005

Police Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

Part 2 – Community Protection (Offender Reporting) Act 2005 Amended

s. 6

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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”.

Police Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

s. 7

Part 3 – Police Offences Act 1935 Amended

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,”.

*No. 44 of 1935

Police Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

Part 3 – Police Offences Act 1935 Amended

s. 11

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*”.

Police Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

s. 13

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

**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”.

*No. 46 of 2000

**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

*No. 77 of 1970

Police Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

s. 17

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

- (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

Police Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

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

s. 17

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.

Police Legislation Miscellaneous Amendments Act 2019
Act No. of 2019

s. 18

Part 6 – Repeal of Act

PART 6 – REPEAL OF ACT

18. Repeal of Act

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