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13.1 Towing of motor vehicles

Definition

For the purpose of this section:

Owner

of a motor vehicle, includes a person who:

- (i) is a joint owner or part owner of the vehicle;
- (ii) is recorded as being the registered owner of a vehicle;
- (iii) has the use of a vehicle under a vehicle hire, hire-purchase or lease agreement; or
- (iv) is authorised to operate the vehicle,

(see Schedule 2: 'Dictionary' of the *Tow Truck Act* (TTA)).

Towing of prescribed motor vehicles within a regulated area

see Schedule 4: 'Regulated Areas' of the *Tow Truck Regulation* (TTR) is controlled by the TTA.

Prescribed motor vehicles

under the TTA are vehicles which:

- (i) are damaged, and will include vehicles involved in traffic crashes as well as vehicles being moved for the purpose of having repairs conducted (see s. 13.1.1: 'Towing of motor vehicles following a traffic crash' of this chapter);
- (ii) have been seized by an officer under s. 124: 'Removal of vehicle or load or other thing' of the PPRA because of s. 125(1)(d) or (2) (see s. 13.1.2: 'Towing of motor vehicles seized by officers' of this chapter);
- (iii) have been parked on private property and the owner has not expressly requested or authorised the towing of the vehicle (see s. 13.1.3: 'Towing of motor vehicles parked on private property' of this chapter); or
- (iv) are of a type prescribed by regulation.

Repossession of motor vehicles

A towing company or repossession agent may advise the police when a vehicle is repossessed.

Officers receiving information from towing companies or repossession agents as to the repossession of a vehicle should, if the company or agent has not reported the tow on the Policelink web form:

- (i) take all relevant details of the motor vehicle, towing company or repossession agent, and contact telephone numbers;
- (ii) check QPRIME to determine if the vehicle has been flagged and, if so, take all necessary action including advising the owner of a vehicle in cases where that vehicle had previously been reported stolen and updating QPRIME; and
- (iii) if the vehicle is not flagged in QPRIME, enter a flag against the vehicle including all relevant details.

Notification of vehicle tows

Policelink have a 'Notification of vehicle tow' web form, which allows tow truck operators to notify the Service when a vehicle has been towed without the knowledge or consent of the owner, including:

- (i) vehicles illegally parked on a roadway (e.g. in a clearway);
- (ii) vehicles parked on private property without the consent of the land owners or occupier; or
- (iii) vehicles which have been repossessed.

13.1.1 Towing of motor vehicles following a traffic crash

Prior to towing a damaged vehicle, the tow truck driver or assistant is required to obtain consent through a towing authority, signed by the owner, owner's agent or an authorised officer (see s. 12(2)(f): 'Conditions of licence' of the *Tow Truck Act* (TTA)).

If the owner of a damaged vehicle following a traffic crash, or the owner's agent, is away from the vehicle or is incapacitated, an officer may sign a towing authority under the TTA pursuant to s. 129: 'Police officer may authorise tow after seizure under any Act' of the PPRA.

When an officer has been requested to sign a towing authority on behalf of the vehicle's owner or agent, if:

- (i) the owner's details have not been recorded on the towing authority; and
- (ii) the officer has access to the owner's name and postal address,

the officer should include the details on the towing authority.

PROCEDURE

Before an officer signs a towing authority pursuant to the TTA, the officer should:

- (i) ensure that the authority is fully and accurately completed, including the owner's details if available;
- (ii) sight the relevant driver's and/or the assistant's certificate, issued pursuant to the TTA and record the licence number of the tow truck which is used to remove the vehicle;
- (iii) inform the tow truck driver that any towing and storage costs are chargeable to the owner; and
- (iv) advise the owner as soon as practicable of the location where the damaged vehicle is being stored.

13.1.2 Towing of motor vehicles seized by officers

For the purposes of this section, a reference to a vehicle also includes a reference to the vehicle's load where applicable.

An officer should not seize or impound, and tow away a vehicle unless:

- (i) the vehicle is required for forensic, mechanical or other examination, and the examination cannot reasonably be undertaken without taking the vehicle into police possession;
- (ii) the vehicle is a located stolen or unlawfully used vehicle and it is not, at that stage, possible to arrange for the owner or a representative of the owner to collect the vehicle and it is not reasonable to leave the vehicle where it was located (see 'Stolen motor vehicles and other vehicles of interest' of s. 1.11.2: 'Recording an offence in QPRIME' of this Manual);
- (iii) the vehicle has been impounded for a type 1 or type 2 offence under Chapter 4: 'Motor vehicle impounding and immobilising powers for prescribed offences and motorbike noise direction offences' of the PPRA (see s. 16.8: 'Impounding of motor vehicles' of the TM);
- (iv) the vehicle has been left on a road in a position which:
 - (a) creates an actual and immediate danger; or
 - (b) constitutes an offence against the Heavy Vehicle National Law (Queensland), *Transport Operations (Road Use Management) Act* or other Act prescribed in s. 125(1)(d): 'Prescribed circumstances for s 124' of the PPRA and its driver cannot be readily located or fails to remove the vehicle when required to do so,

and it is necessary to move the vehicle off the road for the safety or convenience of people using the road and the vehicle cannot be moved except by towing the vehicle (see s. 124: 'Removal of vehicle or load or other thing' of the PPRA); or

- (v) the seizing of the vehicle is authorised by law (see s. 129: 'Police officer may authorise tow after seizure under any Act' of the PPRA).

ORDER

Other than for vehicles impounded for type 1 and type 2 offences (see s. 16.8 of the TM), or where a district or regional instruction provides otherwise, commissioned officer approval (unless delegated lower) is required to seize and tow a motor vehicle.

District officers may delegate the level of officers who can authorise the seizure and towing of motor vehicles as appropriate for their district, e.g. DDO, OIC of stations.

Officers who intend to seize or impound, and tow away a vehicle are to:

- (i) ensure that sufficient grounds exist for such seizure and towing away; and
- (ii) obtain the permission of a commissioned officer (or delegated officer) prior to any seizure and towing away.

Officers requested to authorise the seizing or impounding and towing away of a vehicle are to consider the necessity for the seizure and towing away. Considerations should include:

- (i) the possibility of pushing to a place of safety in preference to towing it away;
- (ii) in cases of located stolen or unlawfully used vehicles, whether an authority by or on behalf of the owner of the vehicle exists for the police to tow away the vehicle, and what attempts have been made to contact the owner;
- (iii) the location of the vehicle; and
- (iv) alternative means of dealing with the vehicle in preference to the seizing or impounding, and towing away of the vehicle (e.g. use of immobilisation powers, see s. 16.3 of the TM).

Storage of seized, impounded and/or towed away vehicles

Other than vehicles lodged at a suitable property point for a forensic, mechanical or other examination, vehicles which have been seized should be taken to the premises of the towing company engaged to tow the vehicle.

Vehicles should not be retained as exhibits. Where a vehicle is seized for evidentiary purposes, in most situations secondary evidence can be offered in any subsequent court hearing and the vehicle itself should be disposed of as soon as practicable.

Officers seizing or impounding vehicles are to comply with the legislative provisions which authorise seizure and disposal.

Responsibilities of reporting officer/seizing officer

For the purposes of this section, when a vehicle has been seized or impounded and towed to a towing company's premises, if the premises is not a declared property point, the vehicle is deemed to be stored at the property point of the police division where the vehicle is being stored.

ORDER

For the purposes of this section, the officer who seizes, impounds or tows away a vehicle is to:

- (i) immediately notify the local police communications centre of the particulars of the vehicle seized/impounded, reason for seizure or impoundment, and location to and from which the vehicle is being towed to;
- (ii) notify their OIC of the seizure/impoundment, towing away and location of the vehicle as soon as practicable;
- (iii) ensure details of the seizure/impoundment, tow and location are entered as a flag to the vehicle in QPRIME as soon as practicable;
- (iv) complete a Vehicle Tow Report in QPRIME when the vehicle has been towed without the owner's consent,
- (v) when a vehicle is lodged or is deemed to be lodged at a property point:
 - (a) complete a QPB 32A: 'Field property receipt' (see s. 4.2: 'Receiving property' of this Manual);
 - (b) notify the property officer for the property point where the vehicle is lodged or is deemed to be lodged (see s. 4.9.3: 'Action on receipt of property' of this Manual);
 - (c) indicate in the relevant QPRIME property entry:
 - the tests or examinations, if any, for which the vehicle is held; and
 - any interior or exterior damage to the vehicle at the time of lodgement;
 - (d) as soon as possible thereafter arrange through normal local procedures for the vehicle to be photographed and for all other necessary tests and examinations to be conducted if applicable;
 - (e) if a motor vehicle is impounded for a type 1 or type 2 vehicle related offence, and when practicable, the impounding officer is to cause photographs to be taken depicting:
 - each side of the vehicle from the corner;
 - the interior of the vehicle
 - the odometer of the vehicle.

These photographs are to be uploaded into the relevant occurrence within QPRIME, in order to assist with the management and disposal of the vehicle by the Service.

Where practicable and appropriate, impounding officers are to ensure all personal property is removed from within the vehicle by the driver or owner prior to it being impounded.

Impounding officers are to ensure that all necessary steps are taken in relation to any property or items that may have evidential significance (e.g. weapons, drugs etc.) contained within the vehicle in accordance with Chapter 4 of the OPM, prior to the vehicle being impounded, or if necessary as soon as practicable following impoundment. The impounding officer retains responsibility for those items until lawfully disposed of in accordance with Service Policy.

(f) make any inquiries necessary to identify the owner or other person with a lawful claim to the vehicle; and

(g) ensure the vehicle is returned to its owner as soon as practicable unless it is necessary to retain the vehicle as evidence;

(vi) if the vehicle was seized under s. 124 of the PPRA, notify the owner of the seized vehicle as soon as reasonably practicable, but within 14 days following the seizure (see s. 4.6.13: 'Disposal of vehicles including loads or other things' of this Manual); and

(vii) if the vehicle was seized under the provisions of the PPRA, other than s. 124, seek an appropriate order with respect to the vehicle (see s. 4.2.6: 'Retention of exhibits' of this Manual).

13.1.3 Towing of motor vehicles parked on private property

Generally, motorists may park or drive on private property only with the consent, express or implied, of the owner or occupier of the land. Parking or driving on private land without any such consent may constitute a civil trespass. The owner or occupier of the land may:

- (i) remove, or cause to be removed, from land a vehicle parked or left standing on private land; and
- (ii) seek restitution from the vehicle's owner for 'damages', known as distress damage feasant (see Criminal Law Bulletin 310 for a discussion of the relevant law (including distress damage feasant), and if necessary seek assistance from their OIC or local Prosecution Corps).

The right of distress damage feasant is vested, in general, only in the occupier of land.

Authority to tow vehicles parked on private property

In accordance with s. 4D: 'Meaning of towing consent' of the *Tow Truck Act (TTA)*, the occupant may authorise a tow truck licence holder to remove private property motor vehicles (see Schedule 2: 'Dictionary' of the TTA), which have been parked on the occupier's land without consent. A tow truck licensee or driver is required to have a towing consent, prior to removing a private property motor vehicle without the vehicle owner's consent. The driver of the tow truck removing a private property motor vehicle must carry a copy of the towing consent (see s. 17A: 'Copy of towing consent must be carried' of the *Tow Truck Regulation (TTR)*).

When towing a private property motor vehicle, the driver of the tow truck is required to comply with s. 12(2)(t): 'Conditions of licence' of the TTA, which includes the requirement to:

(i) before towing the vehicle, take reasonable steps to locate the vehicle's owner (see 'Definition' of s. 13.1: 'Towing of motor vehicles' of this chapter). If the vehicle's owner is located and:

- (a) refuses to move the vehicle; or
- (b) the driver reasonably believes the owner cannot or will not move the vehicle from the property,

the tow truck driver may remove the vehicle from the private property (see s. 29A(1): 'Dealing with private property vehicles' of the TTR);

- (ii) not take longer than reasonably necessary to tow the vehicle;
- (iii) tow the vehicle to the nearest holding yard owned or leased by the tow truck licensee; and
- (iv) not move the vehicle from the holding yard without the written consent of the vehicle's owner.

If the vehicle's owner returns to the vehicle and the tow truck driver:

- (i) is in the process of lifting or securing the vehicle to the tow truck, the tow truck driver is required to immediately release the vehicle without charge if the owner agrees to remove the vehicle from the private property within a reasonable time (see s. 29A(2) of the TTR); or
- (ii) has completely loaded and secured the vehicle to the tow truck but has not left the private property and, if the vehicle's owner pays the 'on-site release charge' before the vehicle is removed from the property, the tow truck driver is to immediately release the vehicle (see s. 29B: 'On site release of private property motor vehicle' of the TTR).

Schedule 3: 'Maximum amounts that may be charged' of the TTR provides the maximum fee a tow truck licensee may charge a vehicle's owner for removing and holding a vehicle which had been parked on private property. Section 32: 'Particular charges prohibited' of the TTR detail charges which a tow truck licensee or driver are not to impose on a vehicle owner.

Notification of Service

When a private property motor vehicle is towed from a private property, the tow truck licensee is required to notify the Service by completing and submitting a 'Notification of vehicle tow' webform to Policelink no later than one hour after the vehicle has been lodged in a holding yard (see s. 17B: 'Police commissioner must be notified about towing of private property motor vehicle' of the TTR).

PROCEDURE

When a 'Notification of vehicle tow' is received at Policelink, members are to create a vehicle tow report and vehicle tow flag against the vehicle in QPRIME.

POLICY

When a vehicle owner contacts a member to report their vehicle as having been towed or stolen, the member receiving the call should conduct a check of QPRIME to determine whether the vehicle has been towed as a private property

motor vehicle. Members should be aware there will be a delay between the towing of the relevant vehicle and the Service's notification.

If the vehicle has been towed, the member should advise where the vehicle has been towed to and the contact details of the relevant towing operator.

13.1.4 Towing contracts

Wherever practicable OIC of regions and commands should endeavour to employ the services of appropriate numbers of suitable towing companies for the performance of police authorised towing within their area of responsibility.

In this regard OIC of regions and commands should call tenders for the engagement of such towing services in accordance with the Queensland Government's Purchasing Policy.

ORDER

A clause must be included in any contract entered into, requiring that the towing company provide a list of all vehicles held by that towing company to the region or command on a monthly basis, or more frequently if required.

13.1.5 Payment of towing fees

When a vehicle, load or thing is seized or moved in accordance with s. 124: 'Removal of vehicle or load or thing' of the PPRA, the owner is liable for the costs for moving the vehicle, load or thing (see ss. 126(1)(b)(ii): 'Steps after seizing a vehicle, load or other thing' and 128: 'Application of proceeds of sale' of the PPRA).

Payment of towing fees by insurance companies

Officers often seize and tow away vehicles, which are stolen or suspected stolen vehicles and re-identified, for the purpose of scientific examination, or some other reason. In some instances, insurance companies may have already paid out to the owner for the vehicle.

Insurance companies generally pay towing costs associated with stolen and recovered vehicles. Normally, the tow truck operator will invoice the insurance company directly for payment of their towing and storage fees.

POLICY

Where a tow truck operator is seeking payment for towing, and storage if relevant, of a located stolen motor vehicle, which was towed for the purposes of conducting an examination, the operator should be referred to the relevant insurance company for payment.

If the operator is unable to obtain payment of their fees from the relevant insurance company, the investigating officer should initiate action to recover towing and/or storage fees associated with the vehicle and incurred by the Service. In this respect the officer should submit a memorandum to the regional or command finance officer advising that officer of the applicable costs.

The regional or command finance officer upon receipt of the memorandum should then issue an invoice against the nominated insurance company.

Payment of towing fees by owners

POLICY

Unless exceptional circumstances exist, towing fees and storage charges should be satisfied prior to the release of the vehicle. Whenever practicable, payment is to be made direct to the towing operator by the vehicle's owner or authorised agent.

However, where this is not practicable and the vehicle is stored on police premises, it is permissible for members to receive payment of the towing fees, which is to be paid to the relevant towing operator.

ORDER

Members receiving money which is to be paid as towing fees to a towing company, are to:

- (i) cause a General Purpose receipt to be issued for the amount concerned with an endorsement thereon to the effect that the money is a towing and/or storage fee payable to a particular towing service, naming the company;
- (ii) hand the receipt to the person making the payment;
- (iii) bank the money so received promptly; and
- (iv) make payment to the relevant towing company by cheque drawn on the Collections Account concerned.

13.2 Abandoned vehicles (as distinct from being stolen and abandoned)

When a vehicle is found on a road and there are reasonable grounds for suspecting it has been abandoned (as distinct from being stolen or unlawfully used and abandoned), the officer should:

- (i) query QPRIME using any attached number plate or vehicle identification number (VIN) and if appropriate flag the vehicle;
- (ii) notify an appropriate officer of the local government for removal (see Release of information to local government of this section);
- (iii) appropriately mark the vehicle to identify that police have been notified of the vehicle, e.g. tying police tape or attaching a 'police aware' sticker to an obvious part of the vehicle; and
- (iv) if the registration is cancelled, seize the number plates if attached (see s. 11.3.1: 'Seizing and disposing cancelled number plates' of the TM).

Where it is apparent the vehicle may have been stolen or unlawfully used, officers should treat the vehicle as a located stolen vehicle and take all necessary action.

For serious indictable offences treat the vehicle as a crime scene.

See also s. 4.6.13: 'Disposal of vehicles including loads or other things' of this Manual.

Release of information to local government

With the approval of a supervisor, officers may release current or previous owner information, including licence address details, to an officer of a local government for the purpose of abandoned vehicle actions by the local government.

The request must be in writing and the release of information is to be recorded. The release must be in writing and contain the caveat contained in Appendix 5.2: 'Example of caveat when responding to requests for information by government departments, agencies or instrumentalities' of the MSM.

13.3 Public officials

Chapter 1, Part 3, ss. 13-18: 'Appointment as, and helping, public officials' of the PPRA outlines provisions when a police officer may be appointed as a public official and circumstances under which a police officer may help a public official, who is not a police officer, under an Act (authorising law) which authorises a public official to perform functions in relation to a person or thing.

13.3.1 Appointments as a public official

Under various authorising laws, an officer may be appointed as a public official. For example pursuant to s. 4C: 'Analysts' of the *Drugs Misuse Act*, the Minister may by gazette notice appoint as an analyst, a person the Minister is satisfied has the qualifications, standing and experience necessary to be an analyst for the Act.

Also an authorising law may expressly provide that an officer is a public official. For example under s. 4: 'Officers' of the *Brands Act*, all officers are ex officio and without further or other appointment, authorised officers.

However, any such appointments or express provisions apply subject to:

- (i) s. 13: 'Appointment of police officers as public officials for other Acts' of the PPRA, which provides that despite the authorising law, the appointer may appoint an officer as a public official for the authorising law only with the Commissioner's written approval to the proposed appointment; or
- (ii) s. 14: 'Declarations of police officers as public officials' of the PPRA, which provides that despite the authorising law, the officer may exercise the powers of the public official only to the extent that the Commissioner first approves the exercise of the powers.

POLICY

The Commissioner has delegated the Commissioner's powers under ss. 13 and 14 of the PPRA to assistant commissioners.

Officers who have a need to be appointed as public officials under an authorising law, which:

- (i) authorises someone (appointer) to appoint public officials for giving effect to the authorising law; and
- (ii) an officer may be appointed as a public official,

are to furnish a report through their officer in charge to their assistant commissioner. The report is to include the following information:

- (i) the circumstances giving rise to the need to be appointed as a public official;
- (ii) whether the officer has:
 - (a) the necessary experience or expertise to be a public official for the authorising law. In this regard the report is to outline the experience or expertise the officer has relating to the particular public official appointment; or

- (b) satisfactorily completed a course of training approved by the Commissioner, and if so identify the course of training and time of attendance and completion;
- (iii) in cases where only certain powers need to be exercised, identification of the public official's powers to be exercised by the police officer; and
- (iv) any other information considered relevant.

Assistant commissioners may approve appointments of officers as public officials under authorising laws subject to and in accordance with the conditions of Delegation D 24.5. Any approval of appointment as a public official is to be communicated by the relevant assistant commissioner to the appointer.

Officers may exercise powers as a public official under an authorising law only if and to the extent the relevant assistant commissioner has approved the police officer's appointment under s. 13 of the PPRA, and following the appointment made by the appointer.

For the power to approve appointments as analysts pursuant to s. 4C: 'Analysts' of the *Drugs Misuse Act* see s. 2.19.6: 'Forensic Services Group' of this Manual and Delegation D 24.5.

In accordance with s. 14 of the PPRA, when under an express provision of an authorising law, officers are public officials, they are not to exercise the powers of the public official except to the extent that the Commissioner first approves the exercise of the powers.

Officers who have or identify a need to exercise the powers of a public official under an authorising law, wherein by express provision therein police officers are public officials, are to furnish a report through their officer in charge to their assistant commissioner. The report is to include the following information:

- (i) the authorising law is to be identified;
- (ii) whether all of the public official's powers under the authorising law are to be exercised or in cases where only certain powers need to be exercised, identification of the public official's powers to be exercised by the police officer;
- (iii) whether the officer has:
 - (a) the necessary experience or expertise to exercise the powers of the public official for the authorising law. In this regard the report is to outline the experience or expertise the officer has relating to the particular public official's powers; or
 - (b) satisfactorily completed a course of training approved by the Commissioner, and if so identify the course of training and time of attendance and completion; and
- (iv) any other information considered relevant.

Assistant commissioners may approve officers to exercise powers of a public official under an authorising law under Delegation D 24.6. Approvals issued under s. 14 are to be in writing and communicated to the police officer being approved.

13.3.2 Helping public officials exercise powers under various Acts

POLICY

If an authorising law authorises a public official to perform functions in relation to a person or thing and the public official asks a police officer, who is not a public official for the authorising law, to help the public official perform the public official's functions under the authorising law, the police officer may help the public official. However before the police officer helps the public official, the police officer is to:

- (i) establish that the person concerned is in fact a public official under the authorising law; and
- (ii) ask the public official to explain to the officer the powers the public official has under the authorising law.

If the public official does not explain to the police officer the powers the public official has under the authorising law, the police officer is not obliged to help the public official. Also if the public official is not present or will not be present when the help is to be given, the police officer may give the help only if the police officer is satisfied giving the help in the public official's absence is reasonably necessary in the particular circumstances.

Police officers have, while helping a public official, the same powers and protection under the authorising law as the public official (see s. 16 of the PPRA).

See also ss. 17: 'Steps police officer may take for failure to give name and address etc. to public official' and 18: 'Steps police officer may take for obstruction of public official' of the PPRA. Note, these two sections do not apply if the public official is a police officer.

See also s. 3.4.7: 'Assisting court staff' of this Manual for assistance to courts in relation to the safe custody and welfare of prisoners and in assisting bailiffs to protect juries.

13.4 Maintaining peace and good order

13.4.1 Peace and Good Behaviour Orders

For Service policy in relation to:

- (i) public safety orders;
- (ii) restricted premises orders; and
- (iii) fortification removal,

issued under the *Peace and Good Behaviour Act* (PGBA), see s. 2.31: 'Policing of serious and organised crime' of this Manual.

A person may lodge a complaint in writing to a court where they are in fear of another person who has threatened to:

- (i) assault or to do any bodily injury to them or to any person under their care or charge;
- (ii) destroy or damage any property of theirs; or
- (iii) procure another to do the acts above,

(see s. 5: 'Complaint in respect of breach of the peace' of the PGBA).

A justice of the peace may issue a summons or warrant for the defendant to appear or be brought before a court.

When advised of an incident which constitutes one or more relevant matters under s. 5, officers should advise the complainant of the provisions of the PGBA and how to make application for a peace and good behaviour order. The person should be referred to a convenient courthouse to seek further information and make the application.

Warrants under the Peace and Good Behaviour Act

Officers who receive a warrant for the apprehension of a person to be brought before a magistrate to answer a complaint under the PGBA should execute the warrant as soon as practicable (see s. 13.18.4: 'Executing and satisfying warrants' of this chapter).

ORDER

Officers who have executed a warrant issued under the PGBA are to:

- (i) convey the defendant to the nearest watch-house;
- (ii) if required by the court, complete a Bench Charge Sheet using the following wording:

That on the [day] day of [month] [year] at [suburb] in the State of Queensland [defendant] apprehended by virtue of Warrant No. [insert number] issued under section [5(2A)(b) or 8(1)(a)] of the Peace and Good Behaviour Act 1982 by the [insert court] Court on the [insert date].

Warrant produced. [Defendant] [admits/does not admit] that [he/she] is the person named in such warrant.

There is no requirement for a Court Brief (QP9) to be furnished;

- (iii) notify the complainant or the complainant's solicitor of the execution of the warrant;
- (iv) notify the appropriate police prosecution corps of the time and date the matter will be before the court; and
- (v) supply a copy of the bench charge sheet to the prosecutor.

The prosecutor is to represent the Service at the first appearance and seek the leave of the court to withdraw from the proceedings.

Breach of Peace and Good Behaviour Order

Officers identifying breaches of orders made under s. 7: 'Magistrates Court may make order' of the PGBA may institute proceedings against the offender by:

- (i) issuing a notice to appear or by arrest under the PPRA; or
- (ii) issuing a caution or undertaking the restorative justice process under the *Youth Justice Act* (see ss. 5.3: 'Cautioning of children' and 5.4: 'Restorative justice processes' of this Manual).

In respect of a breach of an order under the PGBA, the prosecutor is to represent the Service until the matter has been finalised.

Mediation

In accordance with s. 5(c) of the PGBA, with the complainant's consent, the court may order the complainant to submit the matter for mediation at a Dispute Resolution Centre, under the *Dispute Resolution Centres Act*.

There are dispute resolution centres located throughout the State and contact can be made with the Dispute Resolution Branch of DJAG to find the nearest location (see SMCD).

Mediation at Dispute Resolution Centres is not undertaken where parties are not willing to negotiate, ongoing criminal cases, or where legislation or court orders would otherwise be breached.

Officers should advise the complainant of the avenue of redress through mediation where applicable.

See also s. 13.4.12: 'Neighbourhood disputes' of this chapter where disputes relate to dividing fences or overhanging trees.

13.4.2 Peaceful Assembly Act

The *Peaceful Assembly Act* (PAA) ensures the right of a person to assemble peacefully with others in a public place subject to the restrictions set down in s. 5(2) and 5(3): 'Right of peaceful assembly' of the Act.

In accordance with the PAA, people should ordinarily be able to exercise this right without restriction.

The PAA allows organisers of assemblies to give notice to police and local authorities of the proposed assembly. It also allows for the settlement of the authority to hold the public assembly when mediation has failed.

Where an assembly notice is given, and the public assembly is taken to have been approved in conformity with the provisions of the PAA, the assembly then becomes an authorised public assembly. Providing that the assembly is peaceful and is held substantially in accordance with the relevant particulars and conditions, participants in that assembly do not, merely because of their participation, incur any civil or criminal liability because of the obstruction of a public place (note ss. 6 to 10 of the PAA).

For the purposes of this section and in accordance with s. 17: 'Limitation on delegation' of the PAA, reference to the OIC or the delegated officer means an officer at the rank of sergeant or higher.

Notice of intention to hold assembly

To obtain approval for an authorised assembly, the organiser is to give notice of intention to hold the assembly in compliance with s. 9: 'Requirements for assembly notice' of the PAA to the Commissioner and, depending on the intended location of the proposed assembly, the local authority having jurisdiction in relation to the place.

The PAA does not provide for a notice to be in a specific form, however, where possible, organisers should be encouraged to use a QP 0802: 'Notice of intention to hold a public assembly' (on Forms Select & QPS internet).

Consideration of assembly notice

ORDER

Overall responsibility for the consideration of any assembly notice rests with the OIC or delegated officer of the police division in which the peaceful assembly is to take place (see Delegation D 7.2).

A member who receives a notice of intention to hold an assembly is to ensure that the notice applies to their division and forward the notice to the OIC or delegated officer.

Where the intended assembly lies outside of the relevant division, the organiser or person lodging the notice on their behalf is to be advised of the relevant police station or establishment where the notice is to be lodged.

Where a notice of intention to hold a public assembly is requesting variances of dates and/or times, the OIC or delegated officer is to consider if a notice of intention should be made for each variance, for example:

The same public assembly intended to be held for three Saturday mornings in the month of September 2019 (therefore different dates), specifying different times, but the location and route remain the same.

When the OIC or delegated officer receives a notice of intention to hold a public assembly, they are to:

- (i) consider the application, ensuring all particulars as stated in s. 9(2) of the PAA, have been included;
- (ii) be aware of the five business days requirement for submission and approval of notice applications (where the application notice is less than five business days see subsection 'less than five business days notice' of this section); and
- (iii) consider whether grounds exist which make it necessary for the Commissioner to 'oppose' the holding of the assembly (where grounds exist see subsection 'Opposing the holding of an assembly' of this section).

When the OIC or delegated officer approves the notice, the organiser is to be given a QP 0803: 'Notice of permission to hold a public assembly'.

The OIC or delegated officer is to make appropriate arrangements to ensure the safe conduct of the assembly.

Opposing the holding of an assembly

Should there be a reason to oppose the holding of a public assembly, the OIC or delegated officer is to:

- (i) contact the organiser;
- (ii) discuss the concerns;
- (iii) discuss the imposition of terms and/or conditions that will allow the assembly to be held; and

(iv) if agreement on the terms and conditions is reached, obtain agreement in writing from the organiser by issuing a QP 0803 'Notice of permission to hold a public assembly' to the organiser, incorporating the agreed terms and/or conditions.

Should the organiser of an assembly not agree to the terms and/or conditions, the OIC or delegated officer is to complete and forward a QP 0804: 'Objection to application to hold a public assembly' to a commissioned officer, who is responsible for the mediation between the organiser and the opposing OIC or delegated officer, and will:

- (i) contact the organiser of the assembly, advising of the arrangements for the mediation session; and
- (ii) the making of a final determination regarding the terms and/or conditions (if agreement on the terms and/or conditions is reached, obtain agreement in writing by issuing the organiser with a QP0803 incorporating the agreed terms and/or conditions).

Should the mediation process fail:

(i) in cases involving notices given not less than five business days before the proposed date of the public assembly, the OIC or delegated officer is to:

- (a) apply for an order refusing to authorise the holding of the assembly to the magistrates court in the district where the proposed assembly is to be held, for a hearing before a magistrate;
- (b) make every effort to advise the organiser of the arrangements for the hearing;
- (c) advise the relevant police prosecution corps of the hearing arrangements;
- (d) arrange for a police prosecutor to appear at the hearing;
- (e) personally attend the hearing to provide evidence as required by the prosecutor and court;
- (f) prepare a typewritten statement for the prosecutor, outlining the details of the steps taken when considering the notice and the grounds for opposing the holding of the assembly;
- (g) seek an order from the magistrate refusing to authorise the holding of the assembly; and
- (h) should the magistrate refuse to authorise the assembly and the organiser proceeds with the assembly, make arrangements, which may include the option to prevent the holding of the assembly that are in keeping with the objects of the PAA; or

(ii) where an assembly notice is given less than five business days before the day of the proposed public assembly, and following mediation approval has not been given, the organiser may apply to a magistrates court for an order authorising the holding of the assembly. If the organiser applies for such an order, the superintendent of traffic upon being notified of the application is to:

- (a) advise the prosecution corps in the relevant magistrates court district of the hearing arrangements;
- (b) arrange for a prosecutor to appear at the hearing;
- (c) prepare a typewritten statement for the prosecutor, outlining the details of the steps taken in considering the notice and the grounds for opposing the holding of the assembly; and
- (d) whether or not the assembly is authorised and if applicable make necessary arrangements, which may include the prevention of the assembly, in keeping with the objects of the PAA.

ORDER

At the conclusion of the process, the OIC or delegated officer is to:

- (i) ensure that the QP 0802 is completed; and
- (ii) retain the QP 0802, with a copy of the QP 0803 and any other correspondence at the station or establishment where the application was made.

Conduct of the assembly

Whenever a public assembly is held and it is necessary to exercise the powers provided for by Acts such as the PPRA, officers are to exercise those powers during the conduct of the assembly, regardless of whether the assembly is authorised or not, e.g. where an emergency vehicle needs to proceed through an authorised assembly, a direction may still be given to assembly participants to allow the vehicle to proceed.

However, officers are not to give participants in an authorised public assembly any direction under s. 48: 'Direction may be given to person' of the PPRA (a '**move-on direction**') (see ss. 45, 46 & 48 of the PPRA).

Should the public assembly, whether authorised or not, be in conflict with the terms and/or conditions stated in the QP 0803 is in conflict with s. 5 of the PAA, the senior officer at the scene is to (if it is believed that it is necessary in all the circumstances to do so) make a statement to the whole assembly to the effect that:

'in the interests of public safety/public order/protection of the rights and freedoms of others this assembly cannot continue in its present form'.

Participants may then be given a direction under s. 59: 'Power for regulating vehicular and pedestrian traffic' of the PPRA to move to the footpath or to re-form to allow for public safety, public order or the protection of the rights and freedoms of other persons to be maintained.

Conducive with the objectives of the PAA and wherever practicable, subject to the participants complying with any direction or request to modify the manner in which they are assembling, the assembly is to be allowed to continue. For example, where the assembly is a street march blocking an entire street, an opportunity is to be extended to continue the march provided that it is reformed to allow traffic to pass.

Persons taking part in public assemblies who commit offences are to be dealt with in the same manner as they would if the offence was committed in other circumstances. That is, if an offence is committed, officers are to deal with those persons according to law.

Officers are to use their discretion in exercising their power of arrest during the conduct of a public assembly as the process of arresting a person for an offence of a minor nature may cause an otherwise peaceful assembly to escalate into a serious situation. The more serious the offence committed, the more likely it is that an arrest will take place.

Unlawful Assembly

Where an officer is investigating a complaint of three or more persons gathering unlawfully together on land related to animal keeping or other agricultural processes and their conduct taken together would;

- (i) cause a person in the vicinity to reasonably fear that violence will be used; or
- (ii) cause a risk to the safety of a person or food; or
- (iii) cause a risk to animal welfare or biosecurity (e.g. transmission of animal diseases, pests or contaminants); or
- (iv) cause reasonable risk of economic loss,

officers are to consider offences under s. 10A: 'Unlawful assembly' of the *Summary Offences Act*.

Dangerous attachment devices

Officers are to be aware that offence provisions exist in certain circumstances where a person uses a dangerous attachment device to disrupt relevant lawful activities.

Where an officer reasonably suspects a person or vehicle has something that may be a dangerous attachment device that has been used or is to be used to disrupt a relevant lawful activity, officers may stop, detain and search the person or vehicle for the device. (see s. 13.4.3: 'Dangerous attachment devices' of this Manual).

13.4.3 Dangerous attachment devices

Definitions

For the purposes of this section:

Relevant lawful activity

means:

- (i) the ordinary operation of transport infrastructure within the meaning of Schedule 6 of the *Transport Infrastructure Act*;
- (ii) persons entering or leaving a place of business; or
- (iii) the ordinary operation of plant or equipment.

Attachment device

means a device that reasonably appears to be constructed or modified to enable a person using the device to resist being safely removed from a place or safely separated from a thing (see s. 14A: 'What is an attachment device' of the *Summary Offences Act* (SOA)).

Dangerous attachment device

means an attachment device which is also:

- (i) a thing mentioned in s. 14B: 'What is a dangerous attachment device' of the SOA;
- (ii) a device that reasonably appears to be constructed or modified to cause injury to any person if a person interferes or attempts to interfere with the device; or
- (iii) a device that incorporates a dangerous substance or thing.

Use of dangerous attachment devices to disrupt lawful activities

The *Peaceful Assembly Act* (PAA) provides that a person has the right to assemble peacefully with others in a public place. This right is subject only to those necessary and reasonable restrictions required to ensure public safety, public

order; or the protection of the rights and freedoms of other persons. Peaceful assembly may be authorised or unauthorised under the PAA and may involve the use of attachment devices to disrupt relevant lawful activities.

The right to peaceful assembly however does not extend to the use of dangerous attachment devices (DAD) to disrupt relevant lawful activities (See s. 14C: 'Use of dangerous attachment device to disrupt lawful activities' of the SOA).

Officers are to be aware that:

- (i) it is not an offence to merely possess a DAD; and
- (ii) an exception applies in certain situations for the use of a monopole or tripod that does not incorporate a dangerous substance or thing see s. 14C(3) of the SOA.

Searching persons and vehicles without warrant

Where an officer reasonably suspects that a person has in their possession, or a vehicle contains something that may be a DAD, that has been used or is to be used to disrupt a relevant lawful activity, the officer may stop, detain and search for the thing without warrant see ss. 29: 'Searching persons without warrant' and 31: 'Searching vehicles without warrant' of the PPRA.

Where an officer uses search powers in relation to a person or vehicle, the officer is to apply the relevant PPRA safeguards (see Chapter 20: 'Other standard safeguards' of the PPRA) and make an entry in the enforcement register (see s. 2.1.2: 'Registers required to be kept' of this Manual).

Seizure and disposal of dangerous attachment devices

Where an officer finds a DAD and reasonably suspects it has been or is to be used to disrupt a relevant lawful activity, the officer may:

- (i) deactivate or disassemble the DAD; and/or
- (ii) seize all or parts of the DAD.

If a DAD or parts of a device are seized they are immediately forfeited to the State (see s. 53AA: 'Seizure and disposal of dangerous attachment devices' of the PPRA) and a QPB 32A: 'Field Property Receipt' is to be issued to the person from whom the device is seized. The property is to be immediately disposed of in accordance with the provisions contained in Chapter 4 of this Manual.

Commencing proceedings and infringement notices

Where an officer reasonably suspects a person has committed an offence against ss. 14C(1) or 14C(2) of the SOA, they may commence proceedings by way of arrest or notice to appear in accordance with the provisions of Chapter 3 of this Manual.

As an alternative to commencing a proceeding, an officer may issue an infringement notice for the offences.

13.4.4 Deleted

13.4.5 Elections

Federal/State/local government elections

ORDER

Officers are not to act as poll clerks in connection with Federal, State or local government elections.

13.4.6 Security Providers

Section 4: 'Who is a security provider' of the *Security Providers Act* (SPA) provides a:

- (i) bodyguard;
- (ii) crowd controller;
- (iii) private investigator;
- (iv) security adviser;
- (v) security equipment installer;
- (vi) security officer; or
- (vii) security firm,

is a security provider under the Act.

Inspectors under the Security Providers Act

The primary enforcement role of the SPA rests with the Office of Fair Trading. Officers cannot be appointed as inspectors under the Act (see s. 32: 'Appointment of Inspectors' of the SPA).

When officers are enforcing certain provisions of the SPA and the Security Providers Regulation (the Regulation), they may use general investigative powers conferred by the PPRA. For example, an officer can require a person's name and address if the officer finds the person committing an offence or reasonably suspects the person has committed an offence (see ss. 40: 'Person may be required to state name and address' and 41: 'Prescribed circumstances for requiring name and address' of the PPRA).

In addition, the SPA is a relevant law (see 'relevant law' in Schedule 6 of the PPRA and s. 21: 'Relevant law – Act, sch 6, definition relevant law' of the Police Powers and Responsibilities Regulation) and officers may exercise certain powers under s. 22: 'Power to enter etc. for relevant laws' of the PPRA.

Identification to be worn by crowd controllers

When acting as a crowd controller, a licensed crowd controller must wear identification on their chest so that it is clearly visible (see s. 47: 'Identification to be worn by crowd controllers' of the SPA).

The identification must meet certain specifications (see s. 25: 'Crowd controller's identification – Act, s 47' of the Regulation).

This section does not apply to a person who is acting as a bodyguard.

Security provider not to wear or display chequerboard hat

A security provider must not wear, display, or permit to be displayed, a chequerboard hat. A 'chequerboard hat' means a hat displaying a chequerboard design, and includes a hat that has a chequerboard hatband (see s. 24: 'Security provider not to wear or display chequerboard hat' of the Regulation).

Investigation of offences

POLICY

Officers who detect offences against s. 25A: 'Production of licence' and s. 47 of the SPA and ss. 18: 'Liquor licensee to keep register of crowd controllers', 20: 'Security firm to keep register of security providers', 21: 'Security firm to keep register of crowd controllers', 23: 'Security firm's duties about functions and supervision of restricted licensee' or 24 of the Regulation should, if appropriate, prosecute any person who commits such offence or where authorised, issue an infringement notice.

Commissioner may give investigative information

Pursuant to s. 12B: 'Use of information obtained under s 12 or 12A' of the SPA, if the Commissioner reasonably suspects a person is the holder of, or an applicant for a security provider's licence, information about an investigation relating to a possible disqualifying offence (see Schedule 2: 'Dictionary' of the SPA) can be provided to the Chief Executive.

The Commissioner's power under s. 12B of the SPA has been delegated to all officers in charge of regions or commands (See Delegation D 3.3).

Investigative information about a person is not to be provided in certain circumstances (see s. 12B(3) of the SPA).

POLICY

Where an officer reasonably suspects a person is a holder of, or an applicant for a security provider's licence, and the officer has information about that person relating to the possible commission of a disqualifying offence, the officer is to submit a report to the officer in charge of the region or command, outlining the relevant information.

Officers in charge of regions or commands are to assess the information in terms of the conditions as set out in s. 12B(3) of the SPA and, if suitable, forward the details direct to the Manager, Licensing Branch, Business Services Division, Office of Fair Trading (see SMCD).

Fingerprinting of Security Providers

Section 27: 'Fingerprints to be taken' of the SPA provides for occasions where a security provider or applicant are requested to provide their fingerprints to an officer, see s. 2.26.5: 'Taking fingerprints for occupational licensing' of this Manual.

13.4.7 Receiving a complaint in relation to moveable dwelling (caravan/manufactured home) parks

Officers who receive a complaint of a serious nuisance being caused at a moveable dwelling park (MDP) are to record the following details and advise the officer(s) responding to the incident:

- (i) the informant's name, address and contact telephone number;
- (ii) the exact location of the incident;
- (iii) the identity if known, or the description, of the persons involved in the incident;
- (iv) the nature of the disturbance (i.e. the type of serious nuisance being caused); and
- (v) if any hazardous or dangerous situations exist that attending officers should be made aware of.

Officers receiving a complaint are to establish from records in the register, which is required to be maintained, whether an initial or final nuisance direction has previously been given and advise the responding officers.

Investigating a complaint

Before exercising powers under Chapter 19, Part 4: 'Powers relating to nuisance in moveable dwelling parks' of the PPRA, responding officers should take up personally with the complainant to satisfy themselves reasonable grounds exist to suspect:

- (i) the person to whom the serious nuisance is being or has been caused is a resident of or anyone else in the park;
- (ii) the behaviour complained of is of the same or similar nature to those behaviours given as examples of a serious nuisance in s. 592: 'Behaviour in moveable dwelling park causing serious nuisance' of the PPRA;
- (iii) the reported behaviour is occurring or has just occurred in the park.

Officers who are satisfied that the above criteria has been met may in accordance with the PPRA sections:

- (i) 593: 'Power to enter moveable dwelling' – enter a moveable dwelling in an MDP without warrant if the officer reasonably suspects there is a person in the dwelling who is causing or has just caused a serious nuisance;
- (ii) 594: 'Initial direction about serious nuisance' – issue an initial nuisance direction (IND), either orally or by written notice, to a person to stop causing and/or not cause another serious nuisance in the MDP;
- (iii) 595: 'Direction to leave park' – issue a final nuisance direction (FND) if the person has contravened within 24 hours the IND, either orally or by written notice, to a person to leave and not re-enter the park for a period not longer than 24 hours for non-compliance with an IND; and
- (iv) 40: 'Person may be required to state name and address' and 41: 'Prescribed circumstances for requiring name and address' – require persons to whom an IND or FND is about to be given, is being given or has been given to state their name and address or provide evidence of the correctness of their stated name and address.

Initial nuisance direction (IND)

Officers who:

- (i) find a person causing a serious nuisance occurring in an MDP; or
- (ii) suspect on reasonable grounds that a person has just caused a serious nuisance in an MDP;

may issue an IND to that person to immediately stop causing the nuisance (if applicable) and/or not cause another serious nuisance in the MDP. This direction may be given in writing or orally.

This direction should generally be given in the form:

I have found you causing (or I suspect on reasonable grounds that you have just caused) a serious nuisance by (outline offending behaviour). I now direct you to immediately stop that serious nuisance and not to commit another serious nuisance in the park (or in cases where the person is not found causing a serious nuisance, not to commit another serious nuisance in the park). If you contravene this direction you may be directed to leave this park.

Officers who give persons an IND should warn the persons that if they contravene the direction they may be directed to leave the park.

Final nuisance direction (FND)

Officers attending to a complaint of a serious nuisance at an MDP where the person causing the serious nuisance has previously been given an IND within the preceding 24 hours should:

- (i) establish that a serious nuisance is being or has just been caused by the person in that park subsequent to the IND being given; and
- (ii) establish from their local police communications centre (PCC) or station and by questioning of the persons involved whether the person suspected of causing the serious nuisance has been given an IND within the previous 24 hours.

Officers who suspect on reasonable grounds that a person who has been given an IND and contravened it within 24 hours of that direction being given may then give the person an FND requiring the person to leave the park and not re-enter it for a period of up to 24 hours.

An FND may be given orally or in writing.

Officers giving an FND should generally give the direction in the following form:

I suspect on reasonable grounds that you have contravened an initial nuisance direction given to you within the preceding twenty-four hours. I direct you to leave this park and not re-enter it for a period of up to twenty-four hours commencing from now. If you contravene this direction you will be committing an offence for which you may be prosecuted.

Officers who give a person an FND should warn the person that it is an offence to contravene a direction.

Records and registers

Officers who give an IND or an FND to a person are to:

- (i) record, in their official police notebook or on the ITAS occurrence log:
 - (a) the name and address of the person;
 - (b) the moveable dwelling park where the serious nuisance was caused;
 - (c) the time and date of giving the direction;
 - (d) the substance of the direction; and
 - (e) the nature of the behaviour causing the serious nuisance; and
- (ii) ensure the details of the IND or FND are recorded in the persons QPRIME record as a direction flag by notifying PCC or updating QPRIME.

Contravention of officers' directions and tribunal's orders

Where a person has been given an FND and contravenes the FND either by failing to leave the park or by re-entering the park within the stated period, that person may commit an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA.

Section 456(6): 'Order of tribunal excluding person from park' of the *Residential Tenancies and Rooming Accommodation Act* (RTRAA) provides an offence for a contravention of an order made by a tribunal prohibiting a person from entering or being in a MDP without reasonable excuse.

Officers investigating a complaint that a person has contravened an order of a tribunal by entering or being in an MDP should take up with the owner of the park and sight a copy of the order before commencing any enforcement action.

Proceedings for offences

Officers should supply details of the time, date and place of a proceeding for an offence against s. 791 of the PPRA to the owner of the MDP at which the offence occurred upon the request of that owner.

Section 511(1): 'Attempts to commit offences' of the RTRAA provides an offence for attempting to commit an offence against that Act. Section 4: 'Attempts to commit offences' of the Criminal Code applies to the RTRAA.

Warrants of possession

Where officers are approached by an authorised person to assist in the execution of a warrant of possession, which is:

- (i) not directed to an officer, they should accompany the authorised person to ensure that no breaches of the peace occur (see s. 13.4.9: 'Breaches of the peace' of this chapter); or
- (ii) directed to an officer, they are to comply with s. 13.18.11: 'Warrants of possession' of this chapter.

Assisting lessors to gain entry to premises

A lessor or a lessor's agent may enter premises, which include residential premises, caravans, manufactured homes, houseboats and the sites upon which these may be situated if the lessor or lessor's agent believes on reasonable grounds that the entry is necessary to protect the property or its inclusions (things supplied with the premises) from imminent or further damage (see s. 192(1)(l): 'Grounds for entry' of the RTRAA). In these circumstances an officer may accompany the lessor or the lessor's agent (see s. 194(2): 'Entry by lessor or lessor's agent with another person' of the RTRAA).

Officers who are requested to accompany a lessor or a lessor's agent to enter premises should satisfy themselves:

- (i) the person seeking to gain entry is the lessor or the lessor's agent;
- (ii) the premises is one to which a residential tenancy agreement under the RTRAA applies; and
- (iii) as to the reasonableness of the grounds for suspecting that the entry is necessary,

and if satisfied, accompany the lessor into the premises to ensure no breach of the peace occurs.

Officers who assist a lessor or lessor's agent in entering a premises under the provisions of s. 194(2) of the RTRAA should not cause any damage or actually effect a forcible entry.

Other offences and processes under the RTRAA

Officers receiving complaints regarding breaches or inquiries under the RTRAA should refer complainants and inquirers to the Residential Tenancies Authority. Officers should direct all public inquiries relating to the RTRAA to the Residential Tenancies Authority (see SMCD).

13.4.8 Accommodation disputes

The priority for officers called to incidents that involve accommodation disputes are to preserve peace, to prevent crime and detect offences. To assist occupiers or be present whilst occupiers of a place remove persons in accommodation disputes should not be considered unless the officer is satisfied a clear legislative authority to do so exists.

Unless a clear legislative authority to remove a person in an accommodation dispute exists, officers can attempt to resolve these disputes by seeking an agreement from one of the parties to leave the premises voluntarily or refer participants involved to appropriate agencies for legal advice and dispute resolution.

Assisting the occupier of a place to remove other parties (as a trespasser) in accommodation disputes except where a clear legislative authority exists, should only be as a last resort. Officers should request advice from the RDO, DDO, patrol group inspector or shift supervisors based on the specific circumstances of the situation prior to taking this course of action.

Officers are not to provide legal advice to the parties involved in any accommodation dispute.

For relevant definitions members should consult the *Residential Tenancies and Rooming Accommodation Act (RTRAA)* and *Residential Services (Accreditation) Act (RS(A))*.

Residential tenancy or rooming accommodation agreements

The RTRAA provides for a lessor and a tenant to enter into a residential tenancy agreement (RTA) or for a provider and a resident to enter into a rooming accommodation agreement (RAA). These agreements may be entirely in writing, entirely oral or entirely implied, or partly in one of these forms and partly in one or both of the other forms.

The RTRAA provides for:

- (i) the giving of notices in approved forms to:
 - (a) remedy breaches of agreements (see ss. 280, 301, 368, 378); and
 - (b) require the tenant/resident to leave the rental premises for failing to remedy a breach (see ss. 281, 302, 369, 379); and
- (ii) applications to be made for termination of RTA or RAA for:
 - (a) failure to remedy breaches (see ss. 309 and 379); and
 - (b) repeated breaches (see s. 299, 315, 376, 382).

Rooming accommodation agreements (RAA) and removal of residents

Section 375: 'Power to remove resident' of the RTRAA makes it lawful for a provider and anyone helping the provider to use necessary and reasonable force to remove the resident and the resident's property from the rental premises. Necessary and reasonable force can only be used if:

- (i) the provider has given the resident a written notice under Chapter 5, Part 2: 'Ending of rooming accommodation agreements' of the RTRAA;
 - (a) requiring the resident to leave the rental premises and the due day for leaving has passed; or
 - (b) terminating the RAA and the agreement has ended;
- (ii) the resident refuses to leave the premises;
- (iii) a police officer is present; and
- (iv) the force used does not include force that is likely to cause bodily harm to the resident or damage to the resident's property.

Specifically applying to RAA as defined in s. 16: 'Rooming accommodation agreements' of the RTRAA, s. 611: 'Attendance at rental premises while person or property is removed' of the PPRA provides that at the request of a provider, an officer may enter and stay in a person's room in rental premises while the provider, or someone helping the provider, exercises a power under s. 375 of the RTRAA to remove the person or the person's property from the rental premises.

This entry power is subject to a request from the provider for assistance and the existence of all criteria required in s. 375 of the RTRAA.

As outlined in s. 611(2) of the PPRA, s. 611(1) does not limit any other power of an officer under another Act or law. As such, officers may be required to use other legislative powers while monitoring the removal of a resident including arrest and search powers. Officers should also consider using power under s. 52: 'Prevention of offences – general' of the PPRA where appropriate.

Under Chapter 6, Part 1: 'Conciliation process for residential tenancy disputes and rooming accommodation disputes' and Part 2: 'Applications to tribunals' of the RTRAA, residents and providers may use conciliation, dispute resolution processes and ultimately the Queensland Civil and Administrative Tribunal to rectify disputes.

Officers tasked to attend and be present while a provider exercises a power under s. 375 of the RTRAA, are to make inquiries with a view to ascertaining that the provisions of the Act apply.

Providers are able to obtain an approved 'Notice to leave' document from the Residential Tenancies Authority, Queensland.

Officers should be mindful that a provider might not have a copy of the written notice that was provided to the resident. RTRAA does not require the provider to retain a copy of the notice. As such the inability of a provider to produce a copy of the notice does not in itself show the notice has not been given to the resident. In these instances, officers should seek other corroborating evidence that the notice has been given to the resident (e.g. copies of rent receipts, copies of periodic rental agreements, information from other residents, etc.).

Officers should not become involved in the removal of residents or residents' property. Attending officers should remind providers that the primary role of police is to ensure the safety of all persons and to prevent offences.

When it is established that the provisions of s. 375 of the RTRAA are not applicable, the officer is not to make an entry of the resident's room under s. 611 of the PPRA. The provider should be advised to seek advice about the requirements under s. 375 of the RTRAA (see SMCD).

Recording use of entry power

Upon making an entry to a resident's room in rental premises under s. 611 of the PPRA, officers should make a record of the entry. If the entry relates to a QPRIME occurrence, then record the details in the general report of the relevant occurrence, or an entry in the officer's official police notebook.

Residential tenancy agreements (RTA) and removal of tenants

A warrant of possession is a warrant issued under s. 350: 'Issue of warrant of possession' of the RTRAA which allows the lessor of premises rented under a RTA to regain possession of those premises. See s. 13.18.11: 'Warrants of possession' of this chapter for information on execution of these warrants.

Applicability of the Residential Services (Accreditation) Act

A residential service is defined in s. 4: 'Meaning of residential service' of the RS(A)A. A residential service can include a service conducted in a boarding house in which each resident occupies a room and shares a bathroom, kitchen, dining room and common room with other residents or a service providing rental accommodation to older persons in which each of the residents occupies a self-contained unit and is provided with food and personal care service.

However, it should be noted that the legislation does not apply to premises providing accommodation where the room or rooms are occupied, or available for occupation, in the course of the service by less than four residents. Additionally s. 4(5) of the RS(A)A specifically identifies a number of services that are not residential services. Services such as an aged care service, hotel, motel, backpacker hostels and the supported accommodation assistance program are not residential services.

The conduct of residential services is regulated by the RS(A)A through a registration and accreditation system where services must be provided to meet minimum standards. Further, residential services may be regulated by the RS(A)A as most persons using residential services will also be subject to either an RTA or a RAA.

Persons who reside in residential services that are not subject to either an RTA or a RAA, will be covered by some form of a licence to occupy. The person's ability to remain in the place by virtue of the licence to occupy may be subject to control by another Act e.g. the *Retirement Villages Act (RVA)* or the person may become a resident of rooming accommodation which does not come within a RAA or may be a boarder or lodger.

Applicability of the RTRAA

Section 32: 'Boarders and lodgers' of the RTRAA provides that the RTRAA does not apply to a RTA if the tenant is a boarder or lodger.

However, if a rental bond is paid for a RTA under which the tenant is a boarder or lodger, the provisions of the RTRAA about rental bonds apply to the agreement.

Section 44: 'Rooming accommodation agreements to which the Act does not apply' of the RTRAA provides that the RTRAA does not apply to a RAA relating to the following rooming accommodation:

- (i) accommodation provided by a person in premises if:
 - (a) the premises are the person's only or main place of residence; and
 - (b) not more than three rooms in the premises are occupied, or available for occupation, by residents;
- (ii) aged care accommodation provided by an approved provider under the *Aged Care Act (Cwlth)*;
- (iii) accommodation provided at an authorised mental health service under the *Mental Health Act*;
- (iv) accommodation provided in a private hospital under a licence in force under the *Private Health Facilities Act*;
- (v) accommodation for school students:

- (a) provided as part of, or under an agreement with, a school; or
- (b) arranged by a school for students of another school; or
- (c) provided with financial assistance from the education department;
- (vi) accommodation for students within the external boundaries of a university's campus provided:
 - (a) by the university; or
 - (b) by an entity, other than the university, if the accommodation is provided other than for the purpose of making a profit;
- (vii) accommodation provided to holiday makers or travellers (not normally longer than six weeks);
- (viii) accommodation provided under the program known as the Supported Accommodation Assistance Program;
- (ix) accommodation provided under funding given by, or in premises owned by, Aboriginal Hostels Limited ACN 008 504 587;
- (x) accommodation for a person at a retirement village if the person resides in the accommodation under:
 - (a) a residence contract under the RVA; or
 - (b) section 70B of the RVA; and
- (xi) other accommodation prescribed under a regulation not to be rooming accommodation.

If a rental bond is paid for rooming accommodation within the external boundary of a university's campus, the provisions of the RTRAA about rental bonds apply to the agreement.

Attendance at disputes (establish status of person obtaining accommodation)

Officers attending accommodation disputes should establish if the person obtaining the accommodation is a:

- (i) tenant within the meaning of s. 13 of the RTRAA;
- (ii) boarder/lodger;
- (iii) resident in rooming accommodation within the meaning of s. 14 of the RTRAA;
- (iv) resident in rooming accommodation which does not come within an RAA and is not regulated by another act; or
- (v) resident in rooming accommodation regulated by another act such as the *Private Health Facilities Act*.

In determining whether a person is a:

- (i) tenant, an RTA should exist. Normally these agreements should be in writing, however they can be verbal or implied, which can complicate the determination;
- (ii) resident for rooming accommodation under the meaning of s. 14 of the RTRAA – a RAA should exist. Normally these agreements should be in writing, however they can be verbal or implied, which can complicate the determination;
- (iii) resident of rooming accommodation, to which the RTRAA does not apply and may be regulated by another Act – see s. 44(1)(a) to (k) of the RTRAA; or
- (iv) boarder or lodger – officers should consider:
 - (a) if there is another type of contract or agreement (not an RTA or RAA) to occupy the premises, and if so, the conditions in the agreement, (including any termination clause);
 - (b) whether other guests are allowed to stay in the premises;
 - (c) the amount of rent, the method of payment and the continuity of occupation;
 - (d) the intention of both parties on entering into the agreement;
 - (e) whether the occupant has control over the premises or part of the premises or whether control remains with the owner or manager;
 - (f) whether the owner/manager resides on the premises;
 - (g) the provision of services by the owner/manager, such as cleaning and meals;
 - (h) what do the premises consist of, what are the inclusions in the premises as part of the occupancy; and
 - (i) whether there are shared facilities such as bathrooms and kitchens.

Generally if the occupant of the premises has control over all of the facilities associated with the accommodation (bedroom, kitchen, shower and toilet) it may be that the occupant is a tenant and the tenancy of the residential premises is subject to the provisions of the RTRAA and an RTA.

Attendance at disputes (action to take once status of person obtaining accommodation is established)

When an officer has made a determination about the person obtaining accommodation in an accommodation dispute, and that the person is considered a:

- (i) tenant within the meaning of the RTRAA – officers are to see subsection 'Residential tenancy agreements (RTA) and removal of residents' above or refer participants to other agencies listed below for dispute resolution and advice;
- (ii) resident for rooming accommodation under the meaning of s. 14 of the RTRAA – officers are to see subsection 'Rooming accommodation agreements (RAA) and removal of residents' above or refer participants to other agencies listed below for dispute resolution and advice;
- (iii) resident of rooming accommodation which does not come within an RAA but is regulated by another act – officers are to refer participants to other agencies listed below;
- (iv) resident of rooming accommodation which does not come within an RAA and is not regulated by another act or is a boarder/lodger, where:
 - (a) the person's licence to occupy the premises has been validly revoked; and
 - (b) the person fails to leave after having been asked to by the owner/manager of the premises,

that person may become a trespasser. If so, on the expiration or withdrawal of the licence to occupy, trespassing occupants should be given a reasonable time to leave and to remove their possessions. The provisions of s. 13.17.2: 'Requests to remove person(s) from a place, etc. for trespass or disorderly conduct' of this chapter apply.

Referral agencies

Appropriate referral agencies for dispute resolution or advice may include:

- (i) the Residential Tenancies Authority, for matters that are or are believed to be pursuant to the RTRAA;
- (ii) the Tenants Union of Queensland;
- (iii) Services Australia for aged care accommodation provided by an approved provider under the *Aged Care Act* (Cwth);
- (iv) Queensland Health – Mental Health Branch for accommodation provided at an authorised mental health service under the *Mental Health Act*;
- (v) the Office of Fair Trading for student accommodation;
- (vi) the Department of Social Services (Cwth) for accommodation provided under the program known as the Supported Accommodation Assistance Program (also known as the National Affordable Housing Agreement);
- (vii) the Department of Housing, Local Government, Planning and Public Works, the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts or the Office of Fair Trading for accommodation provided under funding given by, or in premises owned by, Aboriginal Hostels Limited; and
- (viii) the Department of Child Safety, Seniors and Disability Services – Legal and Support Service Centres or the Office of Fair Trading for accommodation for a person at a retirement village if the person resides in the accommodation under the RVA.

Contact details for the relevant agencies are included in the SMCD.

13.4.9 Breaches of the peace

What constitutes a breach of the peace will generally depend on the conduct of the person(s), the location where the conduct is occurring and the circumstances surrounding the conduct taking place. See the Prosecution Services Reference Note 30: 'Move-on Powers and Breach of the Peace' on the Service Intranet for a detailed discussion.

POLICY

When a person has been detained under s. 50: 'Dealing with breach of the peace' of the PPRA the detention will be lawful providing that the required reasonable suspicion under s. 50(1) continues to exist. In appropriate circumstances it is lawful for a person detained under s. 50 of the PPRA to be taken to a watch-house or other place (e.g. holding cell) providing that the watch-house manager or other officer in charge holds the required reasonable suspicion.

Once the relevant breach of the peace has been prevented from happening or continuing, or the conduct that is the breach of the peace has been prevented from again happening, the person is to be released from detention.

Where a person is detained under s. 50 of the PPRA and taken to a watch-house or other place (e.g. holding cell):

- (i) an entry is to be made in QPRIME (see s. 16.8: 'QPRIME custody, search and property reports' of this Manual); and
- (ii) no clear authority exists to search such person, unless by consent (s. 443: 'Police officer may search person in custody of the PPRA does not apply).

Persons detained under s. 50 of the PPRA are:

- (i) to be detained for the minimum time necessary;
- (ii) to be monitored/supervised constantly;
- (iii) not to be placed with other prisoners who have been searched; and
- (iv) to be segregated where possible from all other prisoners,

until released from custody or arrested for an offence.

13.4.10 Deleted

13.4.11 Deleted

13.4.12 Neighbourhood disputes

The *Neighbourhood Disputes (Dividing Fences and Trees) Act* (ND(DFT)A) provides options for neighbours to resolve issues about trees and fences. This section will provide officers with information to assist the involved parties when attending disputes relating to dividing fences and overhanging trees.

Disputes in relation to pool barriers which make up the common boundary are managed under Chapter 8, Part 2A: 'Neighbours' rights and responsibilities for particular dividing fences' of the *Building Act*.

In all instances the adjoining neighbours need to agree on the common boundary or arrange for a qualified surveyor to identify the boundary. Officers should be aware fences may not be constructed on the true boundary line.

POLICY

Officers should advise the involved parties of the options to resolve the dispute through the provisions of the ND(DFT)A in appropriate circumstances. It is not the role of the Service to act as mediators or decision-makers between neighbours as dividing fence and tree disputes are resolved through QCAT.

Information to assist and guide neighbours:

- (i) relating to dividing fences (which do not make part of a pool barrier) and overhanging trees is available on the Department of Justice and Attorney-General website and includes:
 - (a) contact advice about free mediation services provided by Dispute Resolution Centres;
 - (b) contact advice about free legal advice through Legal Advice Queensland or a local Community Legal Centres; and
 - (c) guidance on the ND(DFT)A; or
- (ii) relating to pool barriers which make part of a dividing fence is available on the Department of Housing, Local Government, Planning and Public Works website.

13.4.13 Out-of-control events

For the purposes of this section:

Event authorisation

means authority is provided by the senior officer for out-of-control event powers to be enacted.

Out-of-control events typically involve a large gathering of people whose conduct results in persons fearing physical violence or damage to property.

For an event to be an out-of-control event there must be:

- (i) twelve or more persons gathered together;
- (ii) three or more persons associated with the event, either collectively or individually, engaging in out-of-control conduct (see s. 53BC: 'What is out-of-control conduct' of the PPRA); and
- (iii) out-of-control conduct that would cause a person, at or near the event, reasonable fear of violence, damage to property or suffer substantial interference to rights, freedoms, peaceful passage or enjoyment in a public place.

It is immaterial whether a person is present to suffer fear or interference.

Events held on premises subject to specified licensed events, political, industrial or protest actions are not out-of-control events.

Cost orders may be sought in relation to reasonable costs for an out-of-control event, against a person, including a child, either by application or upon the court's own initiative (see Subdivision 2: 'Costs orders' of the PPRA, ss. 53BK-53BN).

Initial response

An officer attending a suspected out-of-control event:

(i) is to assess the situation to satisfy themselves that the event has become, or is likely to become, an out-of-control event; and

(ii) where the officer is satisfied the event has or is likely to become an out-of-control event, the officer (if not a sergeant or above) is to contact a senior officer (see SMD) and seek an event authorisation.

When a senior officer receives a request for an event authorisation, the senior officer is to satisfy themselves the event has become or is likely to become an out-of-control event. Where the senior officer believes the event has or is likely to become an out-of-control event, the senior officer is to:

(i) advise the senior on scene officer at the event location (either in person or by radio, telephone etc.):

(a) that an event authorisation has been issued;

(b) the duration of the event authorisation; and

(c) any restrictions on the use of powers available under s. 53BG: 'Taking action for out-of-control events' of the PPRA;

(ii) create a written record of the event authorisation at the earliest opportunity, which may be recorded in the relevant QPRIME occurrence. The record is to include as a minimum:

(a) time and date of the event authorisation;

(b) the location of the event;

(c) the duration of the event authorisation;

(d) the basis for declaring the event to be an out-of-control event; and

(e) any restrictions included in the event authorisation on how the out-of-control event powers would be used.

ORDER

To ensure compliance with s. 678: 'Register of enforcement acts' of the PPRA, the authorising officer is to ensure a QPRIME 'Out of control event' occurrence [1680] is entered as soon as reasonably practicable.

Out-of-control event powers

When an event authorisation has been issued, officers have additional powers under s. 53BG: 'Taking action for out-of-control events' of the PPRA, namely:

(i) the power to stop a vehicle or enter a place without a warrant;

(ii) give a person or group of persons a direction to:

(a) stop any conduct;

(b) immediately leave a place; or

(c) not to return to a place within a stated period of not more than twenty four hours, unless the person or group resides at the place; and

(iii) take any other steps reasonably necessary,

to stop or prevent the out-of-control event from continuing.

ORDER

An officer is not to use out-of-control event powers unless an event authorisation has been issued by a senior officer.

Out-of-control event directions

Where an officer is authorised to use out-of-control event powers and they intend to give a person or a group of persons a direction under s. 53BG(2)(b) of the PPRA, the officer should, where practical use the following template:

I am [name, rank] of [name of police station/establishment].

An out-of-control event authorisation has been issued regarding this location.

I now direct you [indicate person or group or name of person if known] to immediately:

(i) stop [identify out-of-control conduct];

(ii) leave/move [distance] from [identify place/location] and

(iii) you are not to [return/be within (distance) of place/location] for a period of [not longer than 24 hours],

(as appropriate to resolve the event).

If you fail to comply with this direction you will be committing an offence for which you may be arrested.

Officers who give a person or group of persons a direction are to:

- (i) provide the following details to the communications officer for logging against the job number; and
- (ii) at the earliest opportunity, include the following details in a supplementary report within the relevant QPRIME occurrence created by the authorising senior officer to record the out-of-control event authorisation, the:
 - (a) time and date the direction was given;
 - (b) location of the person or group when the direction was given;
 - (c) name and address, if known, of the person or persons given the direction or a description of the person given the direction, including age, sex and ethnic background; and
 - (d) terms of the direction given.

Failure to comply with out-of-control event directions

Prior to taking any enforcement action against a person who is reasonably suspected of having contravened a direction, officers are to satisfy themselves that the person:

- (i) is a person to whom a direction was given;
- (ii) has contravened the direction;
- (iii) has been warned, where practicable, that it is an offence to fail to comply and that they may be arrested for the offence;
- (iv) has been given a reasonable opportunity to comply with the direction; and
- (v) has no reasonable excuse for contravening the direction,

see s. 633: 'Safeguards for oral directions or requirements' of the PPRA.

Out-of-control event related offences

Where an out-of-control event occurs, a person may commit an offence by:

- (i) organising an out-of-control event (see s. 53BH: 'Organising an out-of-control event' of the PPRA);
- (ii) causing an event to become out-of-control (see s. 53BI: 'Causing an out-of-control event' of the PPRA); or
- (iii) disobeying an out-of-control event direction (see s. 53BJ: 'Offence to contravene direction' of the PPRA).

The officer responsible for investigating an offence under s. 53BH of the PPRA is to be the:

- (i) senior officer who issued the event authorisation; or
- (ii) most senior officer at the event scene where the event authorisation was provided remotely.

Costs associated with an out-of-control event

Where an offender is found guilty of an offence under ss. 53BH, 53BI, or 53BJ of the PPRA, the person may be ordered by a court to pay some or all of the Service's costs associated with policing the out-of-control event.

Where a person is charged with an out-of-control event related offence:

- (i) the investigating officer is to consider whether it is appropriate to make an application for costs against the person if they are found guilty of the offence; and
- (ii) the commissioned officer directly supervising the investigating officer is to prepare the quantum of any costs associated with an out-of-control event.

The costs are to be calculated for the actual time officers were involved in managing the incident, as per the 'QPS Schedule of Fees and Charges' special service rates (available on the Finance Division Receiving Money SharePoint page). Officers are to consider other reasonable costs incurred e.g. police helicopter or police vehicles. The time periods can be obtained from CAD records or ITAS patrol logs.

Wherever practicable, the Service's costs are to be calculated and included in the relevant QPRIME occurrence on the same shift where the event occurred. In any instance, the costs are to be calculated prior to the offender(s) first court appearance.

13.5 Correctional centres and incidents involving Queensland Corrective Services

All correctional centres in Queensland are under the control of Queensland Corrective Services (QCS) whether they are operated by the QCS or by private contractors.

13.5.1 Deleted

13.5.2 Offences under the Corrective Services Act

The most likely simple offences under the *Corrective Services Act* (CSA) to come to the attention of officers are:

- (i) s. 84: 'Prisoner's duties while on leave';
- (ii) ss. 124(a), (e) and (k): 'Other offences';
- (iii) s. 126: 'Helping prisoner at large'; and
- (iv) s. 128(1)(c) and (d): 'Taking prohibited thing into corrective services facility or giving prohibited thing to prisoner'.

Section 142: 'Escape by persons in lawful custody' of the Criminal Code is also applicable to offences in this chapter and is classified as a crime.

Sections 365: 'Arrest without warrant' and 366: 'Arrest of escapees etc.' of the PPRA, specifically s. 366(2), provides the power of arrest for offences relating to prisoners unlawfully at large within the meaning of the CSA.

See s. 3.4.19: 'Charges against prisoners' of this Manual when further charges are to be preferred against a prisoner who is currently serving a term of imprisonment.

13.5.3 Corrective Services Investigation Unit to be advised

POLICY

First response officers are to contact the Corrective Services Investigation Unit (CSIU) when a:

- (i) major incident occurs within a Queensland correctional centre (CC), including where a death occurs;
- (ii) correctional services officer or other staff member of a CC is involved in any:
 - (a) criminal activity; or
 - (b) corrupt conduct;
- (iii) breach of a work order under s. 66(1): 'Work order' of the *Corrective Services Act* relating to security and supervision has occurred;
- (iv) criminal offence has been committed by a prisoner, and QCS is not required to be notified under s. 13.5.4: 'Queensland Corrective Services to be advised' of this chapter; or
- (v) prisoner escapes.

See s. 3.4.19: 'Charges against prisoners' of this Manual when further charges are to be preferred against a prisoner who is currently serving a term of imprisonment.

The Officer in Charge, CSIU, is to notify the relevant district officer or equivalent as to whether any of the above matters are to be investigated by officers from the CSIU or local officers. Officers who are detailed to investigate a matter involving a correctional centre or a prisoner in accordance with such notification are to keep both the CSIU and the relevant district officer informed of the progress of the investigation.

13.5.4 Queensland Corrective Services to be advised

Queensland Corrective Services (QCS) provides the Service with information from their Integrated Offender Management System (IOMS), concerning persons who are subject to:

- (i) a parole order;
- (ii) a probation order;
- (iii) a community service order; or
- (iv) an intensive correction order.

This IOMS information is transferred electronically to the Service and is entered into QPRIME as a 'Flag'.

POLICY

Officers who commence a prosecution against a person who has IOMS information in QPRIME are to contact QCS, by telephoning the General Manager, Probation and Parole (see SMCD).

Officers who otherwise deal with such a person in circumstances where they consider QCS should be notified, are to contact QCS via e-mail, to the General Manager, Probation and Parole and provide the following information:

- (i) name and date of birth of the subject person;
- (ii) the Correctional Information System (CIS) ID number of the person, which is recorded in QPRIME; and
- (iii) contact details of the responsible officer.

13.5.5 Requests for information from Queensland Corrective Services

POLICY

The Corrective Services Investigation Unit (CSIU) should be the first contact point for officers to make official inquiries with Queensland Corrective Services (QCS). A State Intelligence Group analyst is permanently stationed at the CSIU and has access to the QCS database and prison network systems.

13.5.6 Supply of information impacting on the security classification, protection or security of prisoners to Queensland Corrective Services

Officers may on occasions be required to provide information to Queensland Corrective Services (QCS) which may impact on the security classification, protection or security of prisoners or the security or good order of correctional facilities.

Where an officer has information which may relate to:

- (i) the safety, security classification or placement of a prisoner; and/or
- (ii) the security and good order of a correctional facility (including threats to QCS staff),

the officer is to ensure this information is provided to QCS.

All information provided to QCS which may relate to the security classification, protection or security of prisoners, and or the security or good order of correctional facilities, is to be:

- (i) entered in QPRIME as an intelligence submission; and
- (ii) assigned as a task by the relevant intelligence office to the organisational unit, Corrective Services Investigation Unit (CSIU).

The Inspector, CSIU, is to ensure any information received in this manner is provided to the appropriate person within QCS.

In emergent circumstances, a commissioned officer may authorise that such information be provided directly to QCS Intelligence and Investigations Branch Intelligence Group (see SMCD). However, information thus provided should be entered in QPRIME as an intelligence submission and tasked to CSIU at the first available opportunity.

See ss. 3.4.18: 'Supply of information where court outcome requires action by Queensland Corrective Services or Youth Justice Services' and 3.4.36: 'Notification of Chief Executive, Queensland Corrective Services, regarding committal, conviction, etc. of relevant person' of this Manual when information is to be supplied to QCS other than information relating to the security classification, protection or security of prisoners.

QCS may request information about a current criminal investigation of a QCS employee for disciplinary purposes (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM).

13.5.7 Where a prisoner is unlawfully at large or escapes from a correctional centre

ORDER

In addition to the provisions contained in Chapter 2: 'Investigative Process' of this Manual, first response officers receiving a complaint that a prisoner is unlawfully at large or has escaped from a correctional centre are responsible for:

- (i) the initial inquiries and circulation of the prisoner's description, etc.; and
- (ii) recording the offence with Policelink as required in s. 1.11.2: 'Recording an offence in QPRIME' of this Manual.

13.5.8 Where a prisoner who is unlawfully at large or escapee is located

ORDER

Officers who locate, or are assigned responsibility for a located prisoner who is unlawfully at large or an escapee, are to ensure that the prisoner is returned to safe custody as soon as practicable and to ensure the relevant QPRIME occurrence is updated as required in s. 1.11.7: 'Prosecution of offender' of this Manual. Officers who locate a prisoner are to ensure advice of the prisoner's recapture, by e-mail message, is forwarded as soon as possible to the:

- (i) Officer in Charge, Corrective Services Investigation Unit (CSIU) at SCC CSIU; and
- (ii) Duty Officer, Police Communications Centre (PCC) at PCC Duty Officer [CCE].

The Duty Officer, PCC, is to advise the on-call officer, CSIU, by pager as soon as practicable after that prisoner has been recaptured.

13.5.9 Copy of occurrence report to be forwarded to Corrective Services Investigation Unit

ORDER

When an officer submits an occurrence report or any other documentation which relates to a prisoner, a correctional centre or personnel of Queensland Corrective Services and the original is not sent to the Corrective Services

Investigation Unit (CSIU) for attention, shift supervisors or officers in charge of stations or establishments are to ensure that a copy of the occurrence report or other relevant documentation is promptly forwarded to the Officer in Charge, CSIU.

13.5.10 Offences committed by prisoners prior to their admission to prisons

POLICY

Criminal offences committed by prisoners prior to their admission to prison should continue to be investigated by local police unless circumstances warrant the attention of the Corrective Services Investigation Unit.

13.5.11 Declaration of emergency under the Corrective Services Act

The Chief Executive, Queensland Corrective Services may with the Minister's approval in certain circumstances under s. 268: 'Declaration of Emergency' of the *Corrective Services Act* declare that an emergency exists in relation to a prison for a stated period, not more than three days. While the declaration is in force, the Chief Executive may authorise officers to perform a function or exercise a power of a corrective services officer, under the direction of the senior officer present.

Section 797: 'Helping during declaration of emergency under Corrective Services Act' of the PPRA, further states that the police officer authorised by the Chief Executive must perform the function or exercise the power of a corrective services officer under the direction of the senior officer present at the prison for which the corrective services emergency declaration is in force.

POLICY

Where officers are authorised to perform a function or exercise a power of a corrective services officer under the direction of a senior police officer, senior police officers are to inform police officers of their functions and powers under the *Corrective Services Act* before police officers are required to perform those functions and powers.

See Chapter 2: 'Prisoners', Chapter 3: 'Breaches of discipline and offences' and Chapter 4: 'Corrective services facilities' of the *Corrective Services Act* for the functions and powers performed by corrective services officers.

13.5.12 Visiting a Queensland Corrective Services correctional centre

A member wishing to visit a Queensland Corrective Services (QCS) corrective service facility (CSF) for business purposes is to contact the facility a minimum of 24 hours before to arrange a visit. In exceptional circumstances, applications providing less than 24 hours' notice may be approved. Officers from the Corrective Services Investigation Unit (CSIU) are not subject to providing minimum notice on visits to a CSF and are to visit as required.

All visitors to correctional centres will be subject to security clearance and must complete and sign an appropriate form before entry is permitted. Visitors may also be required to submit to a search before entering a CSF. All members visiting a CSF for business purposes are to be in possession of their official photographic identification.

All members who visit a CSF are to comply with all provisions of the *Corrective Services Act* (CSA) and all lawful directions given by any corrective services officer, where the directions are given for the security or good order of the facility or for a person's safety (see Chapter 3, Part 3: 'General offences' of the CSA).

Officers are not to:

- (i) take, or attempt to take a prohibited thing into a CSF; or
- (ii) give or attempt to give a prisoner in a CSF a prohibited thing,

(see s. 128: 'Taking prohibited thing into corrective services facility or giving prohibited thing to prisoner' of the CSA)

A prohibited thing within a CSF includes:

- (i) weapons;
- (ii) money;
- (iii) a communication device (including mobile phones); and
- (iv) electronic storage devices.

Officers may show prisoners court documents (such as notices to appear, statements, protection orders, summons of a witness) but are not to leave such documents with the prisoner. Instead, officers should request a corrective services intelligence officer or a corrective services custodial supervisor to arrange to place the items in the prisoner's reception property (see s. 19: 'Prohibited things – Act, s 123' of the *Corrective Services Regulation*).

Officers should, however, carry essential resources, equipment and accoutrements into a CSF for official duties. This includes the following items:

- (i) electronic tablets (e.g. iPads, QLiTE devices);
- (ii) laptops;
- (iii) mobile telephones;

- (iv) two-way radios;
- (v) digital video cameras;
- (vi) body worn cameras;
- (vii) electronic storage media to assist with access and transfer of investigative material;
- (viii) mechanical restraints; and
- (ix) chemical agents.

Officers are not permitted to carry personal electronic devices, only those used for official duties. Officers must comply with any corrective service procedure (i.e. completing a register or similar, for any prohibited thing being brought into a CSF).

Officers should be aware that the above list of items that may be carried into a CSF is based on advice from QCS and may be subject to change and officers should always follow the directions of QCS when entering any CSF.

Officers may take handcuffs into a corrective services facility but are not permitted to take a firearm, conducted energy weapon (Taser) or baton into a CSF. These items must be stored prior to entering the secure area of a CSF.

Interviewing a prisoner

Officers can visit a CSF to interview a prisoner. A prisoner may refuse to see the officer or agree to see them but refuse to answer any questions. Officers visiting a CSF to interview prisoners are to comply with all QCS procedures, including:

- (i) completing any forms required by QCS;
- (ii) not allowing a prisoner unsupervised access to any communication device; and
- (iii) the monitoring, recording and/or authorisation of all telephone calls made by prisoners,

(see s. 167: 'Law enforcement visitor' of the CSA).

To assist an officer in meeting their obligations under ss. 418: 'Right to communicate with friend, relative or lawyer' and 434: 'Right of visiting foreign national to communicate with embassy etc.' of the PPRA, an officer can provide a prisoner with a mobile telephone to enable them to contact a lawyer of the prisoner's choice or an embassy prior to questioning them for an indictable offence. The officer is to:

- (i) only provide access to a telecommunication device that is for official use and owned by the Service or QCS;
- (ii) ensure the prisoner cannot operate or redirect the telephone;
- (iii) notify the correctional centre intelligence manager that the prisoner has been provided with the call including the date and time of the call;
- (iv) prior to making the call:
 - (a) verify the number to be called;
 - (b) verify the intended recipient; and
 - (c) record these details in their official police notebook and/or diary;
- (v) dial the intended number themselves and verify the recipient before providing the telecommunications device to the prisoner; and
- (vi) ensure the prisoner does not:
 - (a) breach any court order when contacting a friend/relative; or
 - (b) contact a civilian with whom QCS has prohibited contact.

13.6 Unlawful taking of electricity

Police officers are not authorised persons under the provisions of the *Electricity Act* and have no powers under that Act. Officers do, however, have general powers under the PPRA to investigate offences.

Offences relating to the unlawful taking of electricity and other related offences should be investigated and prosecutions commenced by electricity officers of the local electricity authority.

In cases involving clandestine illicit drug laboratories or hydroponic cannabis crops, police officers should investigate the possible fraudulent appropriation of power and commence proceedings under the Criminal Code where appropriate. In instances where offences against the *Electricity Act* are investigated by officers, the provisions of the PPRA are to be complied with. Wherever required, the expert assistance of electricity officers of the local electricity authority should be sought.

Except for cases of suspected fraudulent appropriation of power involving clandestine illicit drug laboratories or hydroponic cannabis crops or instances where the offence is of a non-technical nature e.g. a breach of s. 235: 'Unlawful taking of electricity' of the *Electricity Act*, officers who become aware of *Electricity Act* related offences should refer the matter to the relevant electricity authority for investigation and prosecution.

See also ss. 2.6.6: 'Clandestine illicit drug laboratories' and 2.6.7: 'Illicit drug crops' of this Manual.

13.7 Liquor and licensed premises

Authority to investigate offences under the Liquor Act

In accordance with s. 4: 'Definitions' of the *Liquor Act* (LA), a:

- (i) police officer; and
- (ii) community police officer (see s. 4 of the LA),

are investigators for the purpose of exercising the powers of the Act (see Instrument of Authority D 27.3).

Liquor seizure and disposal

In addition to powers under the LA:

- (i) s. 53: 'Prevention of particular offences relating to liquor'; and
- (ii) s. 53A: 'Seizure of liquor from a minor in particular circumstances',

of the PPRA authorise officers to seize and dispose of the liquor in a way the officer considers reasonably necessary. This includes the power to immediately dispose of the liquor (e.g. empty the alcohol from the container onto the ground) or lodge the liquor at a property point.

Seized and forfeited liquor is to be disposed of in accordance with s. 13.7.12: 'Seizure and disposal of liquor' of this chapter.

Property seized under the Liquor Act

Within Part 7: 'Investigators and their powers' of the LA, specific powers are provided to investigators relating to the seizure of vehicles, boats, aircraft, animals and other things the investigator knows or reasonably suspects is or has been involved in the sale, consumption, possession or carriage for sale of liquor in contravention of the Act.

Where an officer seizes property under Part 7 of the LA and the property is to be:

- (i) forfeited to the State by a court order under s. 187F: 'Forfeiture on conviction' of the LA; or
- (ii) returned to the owner or otherwise disposed, in accordance with the PPRA,

(see s. 187A(2): 'Application' of the LA).

Officers intending to seize and tow away a vehicle under the provisions of the LA should ensure the required permission has been obtained (see s. 13.2: 'Abandoned vehicles (as distinct from being stolen and abandoned)' of this Manual).

Preparing comments on applications relating to the Liquor Act

The Office of Liquor and Gaming Regulation is required under the provisions of the LA, to seek comment from the Service on certain applications made under the Act. A guide for preparing comments on applications is available on the Liquor Section webpage on the Service Intranet.

13.7.1 Reporting incidents involving licensed premises

Minor incidents at licensed premises, considered in isolation, may not warrant breach action or reporting to the Office of Liquor and Gaming Regulation (OLGR) for investigation. However, a succession of minor 'one-off' incidents may be precursors to significant incidents resulting in injury to members of the public and officers.

The OLGR maintains a central record of all incidents reported by officers whether or not breach action has been taken. The recording of incidents enables the OLGR to identify any trends at licensed premises which may require proactive negotiations with the licensee of the premises aimed at curtailing potential significant incidents.

Officers who attend or become aware of any incidents involving licensed premises, where:

- (i) a QPRIME occurrence has not been created; or
- (ii) additional information in relation to the incident needs to be reported,

should create a 'Liquor Incident Report' (LIR) in QPRIME as an 'intelligence/Street Check Report' and not a 'general report' or supplementary report'.

When completing a LIR in QPRIME officers are to ensure accurate information is recorded in the entry and in accordance with the QPRIME user guide as this data/evidence is forwarded externally to OLGR.

A task should be forwarded to:

- (i) the local liquor unit;
- (ii) the officer responsible for coordination of liquor incidents; or
- (iii) their OIC where a local liquor unit or an officer responsible for coordination of liquor incidents has not been appointed.

The Manager of the Drug and Alcohol Coordination Unit (DACU), Policy and Performance Division is to download QPRIME Liquor Incident Report on a weekly basis and forward the reports to the OLGR for their attention.

Where officers attend a serious incident, or receive information requiring an urgent response from OLGR, the investigating officer is to:

- (i) create a 'Liquor Incident Report' in QPRIME;
- (ii) complete a QP 0489: 'Liquor incident report';
- (iii) save the completed QP 0489 in the relevant QPRIME occurrence;
- (iv) forward by email the completed QP 0489 to the relevant Compliance Unit – OLGR (see SMCD); and
- (v) forward a QPRIME task to the local liquor unit, or the officer responsible for coordination of liquor incidents (if appointed), or their OIC.

Linking an offence to a licensed premises

Where an offence is related to a licensed premises, members are to ensure the appropriate fields of the QPRIME occurrence are completed to:

- (i) indicate the offence is related to a licensed premises;
- (ii) record the relevant statistics; and
- (iii) identify and record any nexus between the incident and the related licensed premises.

Where a relevant assault offence is related to licensed premises, in addition to recording the information above in the relevant QPRIME occurrence, officers should record in the Occurrence MO that a certificate has been issued following breath, saliva, blood or urine analysis for a relevant assault offence obtained and the results of the analysis (see s. 2.32: 'Prescribed offences and relevant assault offences' of this Manual). Section 233(2)(ba): 'Evidentiary provisions' of the *Liquor Act* provides the certificate is admissible as evidence of an offence under the Act.

13.7.2 Exclusion options

There are a number of options available for licensees, liquor licensing officials and police officers to exclude persons from licensed premises and their adjacent areas including:

- (i) licensees right to provide a safe premises under ss. 260: 'Preventing a breach of the peace' and 277: 'Defence of premises against trespassers – removal of disorderly persons' of the CC;
- (ii) licensees refusing a person entry or removing a person from a specific licensed premises (see ss. 165-165B of the *Liquor Act* (LA));
- (iii) licensees refusing a person entry or removing a person from a specific licensed premises, where the person is wearing or carrying a prohibited item indicating membership or association with a declared criminal organisation (see ss. 173EA-173ED of the LA);
- (iv) a police officer under s. 184(1)(d): 'Other powers of investigators' of the LA, refusing a person entry or removing a person from a specific licensed premises (see ss. 165-165B of the LA);
- (v) police move-on powers to prohibit a person from returning to a specified area for up to 24 hours (see s. 13.23: 'Move-on power' of this chapter);
- (vi) police banning notice issued by an officer to prohibit a person from a relevant public place for the period of time stated on the notice (see s. 13.7.5: 'Police banning notices' of this chapter);
- (vii) special conditions under s. 11(3): 'Conditions of release on bail' of the *Bail Act* prohibiting a defendant from entering or remaining in a specified place (see s. 13.7.4: 'Bail conditions relating to licensed premises' of this chapter and s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this Manual); and
- (viii) a banning order issued by a sentencing court at the conclusion of proceedings involving violence within or in the vicinity of licensed premises (see s. 13.7.6: 'Court-issued banning orders' of this chapter).

13.7.3 Safe night precincts

Safe night precincts (SNPs) are created under Part 6AB: 'Safe night precincts' of the *Liquor Act* for the purpose of minimising:

- (i) harm and the potential for harm from the abuse and misuse of alcohol and drugs and associated violence; and
- (ii) alcohol and drug-related disturbances, or public disorder.

Each safe night precinct may have a local board established to achieve the purposes of the precinct. Service representatives may attend local board meetings as a member of the board's Public Safety Consultative Committee.

SNPs are regulated in s. 173NC(1): 'Safe night precincts and local boards' of the *Liquor Act* with 'Safe night precinct' maps displaying the declared areas located in Schedule 2 to Schedule 16 of the Liquor Regulation.

13.7.4 Bail conditions relating to licensed premises

Where a person is charged with an offence related to licensed premises, special bail conditions may be issued by the prescribed police officer at a watch-house or by a court under s. 11(3): 'Conditions of release on bail' of the *Bail Act* (BA) (see s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this Manual).

Where a defendant is subject to a special bail condition under s. 11(3) of the BA, in accordance with s. 602S: 'Power to detain and photograph' of the PPRA, the defendant is to be photographed prior to release (see s. 13.7.7: 'Imaged orders' of this chapter).

Where the prescribed officer issues a Form 7: 'Undertaking to bail' (available in QPRIME) including conditions relating to licensed premises under s. 11(3) of the BA, the officer is to send a QPRIME 'for your information' task to:

- (i) the local liquor unit, or the officer responsible for coordination of liquor incidents (if appointed); and
- (ii) the OIC of the division where the licensed premise is located.

13.7.5 Police banning notices

In accordance with Chapter 19, Part 5A: 'Police banning notices' of the PPRA, officers may issue a police banning notice, prohibiting a person from entering, attending or remaining in:

- (i) licensed premises or class of licensed premises;
- (ii) a public place in a safe night precinct, including all licensed premises;
- (iii) an event in a public place where liquor is being sold for consumption; or
- (iv) stated areas in the vicinity of (i) to (iii) above,

for a stated period of time.

To manage the various processes linked to a police banning notice, when a Form 400: 'Initial police banning notice' is issued, a QPRIME occurrence/street check is to be created, with all later action including imaged orders, extended police banning notices and any other processes to be conducted within the occurrence/street check.

Recording of banning notices in QPRIME

Banning notices, as well as any amendments, extensions, cancellations, recording of court-issued banning orders or special bail conditions are to be recorded in QPRIME in accordance with 'Banning Provisions' of the QPRIME User Guide.

Initial police banning notice

In accordance with s. 602C: 'Police officer may give initial notice' of the PPRA, an officer may issue a Form 400: 'Initial police banning notice' to an adult.

Before issuing a Form 400: 'Initial police banning notice', approval of an officer of the rank of sergeant or above is to be obtained, unless the officer giving the notice has that rank (see s. 602C(2) of the PPRA).

When a Form 400 'Initial police banning notice' is issued, a banning order photograph (see SMD) may be taken of the respondent to create an imaged order (see s. 13.7.7: 'Imaged orders' of this chapter).

Approval for a Form 400: 'Initial police banning notice' may be given verbally, including by telephone, radio, internet, electronic communication or other similar facility.

Both the officer giving the Form 400: 'Initial police banning notice', and approving officer are to be reasonably satisfied the:

- (i) respondent behaved in a disorderly, offensive, threatening or violent way (for examples see s. 602C of the PPRA);
- (ii) behaviour was at or in the vicinity of a relevant public place (see SMD); and
- (iii) respondent's presence or immediate future presence, at the relevant public place and any other public place stated in the notice, poses an unacceptable risk of:
 - (a) causing violence;
 - (b) impacting on the safety of other persons attending; or

(c) disrupting or interfering with the peaceful passage, or reasonable enjoyment of other persons, at the relevant public place.

Information to be uploaded into QPRIME prior to the issuing officer terminating shift

Where an officer has issued an initial police banning notice, an occurrence/street check is to be entered into QPRIME as soon as reasonably practicable but before termination of duty. QPRIME will automatically transfer the prohibited persons banning data and photo to approved ID scanners in all regulated licenced premises. Failure to upload the information into QPRIME (see QPRIME User Guide: 'Banning Provisions') will allow a banned person to enter, attend or remain in a regulated licensed premises in contravention of the notice.

A Form 400: 'Initial police banning notice' remains in effect from the time of service on the respondent until:

- (i) where there is no stated event, the day stated in the notice (not more than 1 month after the day the notice takes effect); or
- (ii) for a stated event, the end of the day (midnight) the event ends.

(see s. 602D: 'Duration of initial notice' of the PPRA).

Notice to be explained

An officer giving an initial police banning notice is to comply with s. 602E: 'Notice to be explained' of the PPRA.

Written record of approving officer

Pursuant to s. 602I: 'Written record for notices' of the PPRA, the officer approving the giving of an Form 400: 'Initial police banning notice' is to make a written record of the:

- (i) decision and reasons to approve the Form 400: 'Initial police banning notice';
- (ii) date and time of the decision; and
- (iii) name, rank, registered number and station of the officer,

at the time of granting approval or at the first reasonable opportunity after the notice is given. The written record is to be made in their official police notebook, patrol log or within the relevant QPRIME occurrence.

Extending police banning notices

Section 602F: 'Extended police banning notice' of the PPRA authorises an officer of the rank of senior sergeant or above (the '**relevant officer**') to give the respondent a Form 401: 'Extended police banning notice'. The decision is to be made at least three days before the expiry of the Form 400: 'Initial police banning notice' and may make changes to:

- (i) extend the duration of the Form 400: 'Initial police banning notice' to a day and time no later than three months after the start time of the Form 400: 'Initial police banning notice'; and/or
- (ii) include additional:
 - (a) relevant public places (see SMD); and/or
 - (b) days or times prohibiting a person from entering, attending or remaining in relevant public places,

when the relevant officer is reasonably satisfied the extended police banning notice is necessary. The relevant officer is to provide written details on the Form 401: 'Extended police banning notice' of their decision and the reasons for their decision to extend the notice.

Before making a decision to issue an extended police banning notice the relevant officer is to consider s. 602F(4): 'Extended police banning notice' of the PPRA.

Where an extended police banning notice is issued, the relevant officer is to update the relevant QPRIME occurrence/street check relating to the Form 400: 'Initial police banning notice'.

Cancellation of police banning notice (initial or extended)

Before cancelling a police banning notice, officers are to comply with s. 602JA: 'Cancellation of police banning notices by police officers' of the PPRA.

Where the relevant officer (senior sergeant or above) cancels a Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' the officer is to:

- (i) as soon as reasonably practicable, give the respondent named in the Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' a QP 0980: 'Notice of cancellation – police banning notice'; and
- (ii) modify the relevant QPRIME occurrence/street check to detail the reasons for cancelling the Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice'.

Where a Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' is cancelled after distribution to relevant licensees, approved managers or responsible persons has occurred, the relevant officer is to

provide notice of cancellation of the Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' to the previously advised persons (see s. 13.7.8: 'Distribution of imaged orders by police' of this chapter).

Respondent's application to amend or cancel a police banning notice

In accordance with s. 602N: 'Internal review for police banning notices' of the PPRA a respondent for a police banning notice (see SMD) may apply to have the notice amended or cancelled:

- (i) within fifteen days after the notice takes effect; or
- (ii) at any time for an extended police banning notice.

An application to amend or cancel a police banning notice is to be made on a Form 405: 'Application to amend or cancel a police banning notice' (available on the QPS internet).

Where a Form 405 is received from a respondent, s. 602O: 'Commissioner's decisions about notices' of the PPRA requires the Commissioner to make a decision regarding the application:

- (i) as soon as reasonably practical; and
- (ii) if the application relates to an extended police banning notice within five business days of receiving the application.

The Commissioner has delegated the authority to receive and determine applications to amend or cancel police banning notices to commissioned officers (see Delegation D 24.69).

Commissioned officers receiving an application to amend or cancel a police banning notice are to refer to the 'Guide for deciding applications to amend or cancel a police banning notice' available on the Police banning notices page on the Drug and Alcohol Coordination Unit webpage on the Service Intranet.

The commissioned officer is to, as soon as reasonably practicable after deciding to:

- (i) cancel;
- (ii) amend; or
- (iii) not change,

the police banning notice, ensure the respondent is given a QP 0981: 'Decision (internal review – extended police banning notice)' or QP 0982: 'Decision (internal review – initial police banning notice)'.

Where a police banning order is cancelled, necessary arrangements are to be made for the banning order photograph to be deleted from QPRIME if no other banning order exists (see 'Destruction of banning order photographs' of s. 13.7.7: 'Imaged orders' of this chapter).

Where a police banning notice is amended or cancelled after distribution to relevant licensees, approved managers or responsible persons has occurred, the relevant officer is to provide notice of amendment or cancellation of the police banning notice to the previously advised persons (see s. 13.7.8: 'Collation and distribution of court-issued banning orders and police banning notices' of this chapter).

Amendment or cancellation if court banning order made

Section 43J: 'Making a banning order' of the *Penalties and Sentences Act* (PSA) provides where a court issues a banning order, the court may decide to amend or cancel an initial police banning order or extended police banning order.

Pursuant to s. 602K: 'Amendment or cancellation if court banning order made' of the PPRA, where a court banning order is received for the amendment or cancellation of a police banning notice, the Commissioner will give the respondent a QP 0999: 'Notice of amended or cancelled police banning notice (court order)' detailing the amendment or cancellation. The Commissioner has delegated the authority to:

- (i) receive court banning orders; and
- (ii) give the QP 0999 to the respondent,

to OICs of police stations or establishments (see Delegation D 24.68).

(See s. 13.7.8: 'Distribution of imaged orders by police' of this chapter).

Where a court banning order is received by Police Information Centre for the cancellation or amendment of a police banning notice, a QPRIME task will be forwarded to the OIC of the station or establishment where the original police banning notice was issued from.

The OIC of the station or establishment is to:

- (i) ensure a QP 0999 is completed within two business days of receiving the court-issued banning order and is given to the respondent as soon as reasonably practicable; and
- (ii) modify the QPRIME occurrence/street check relating to the relevant Form 400: 'Initial police banning notice' to record the court banning order.

Breach of police banning notice

If a banned person breaches a condition of a police banning notice without reasonable excuse, they commit an offence under s. 602Q: 'Offence to contravene notice' of the PPRA.

A police banning notice does not prohibit the respondent from entering or remaining in their own residence, place of employment or place of education (see s. 602J: 'Actions not prohibited by notice' of the PPRA).

Where a licensee, permittee, manager or employee of licensed premises knowingly allows a banned person to enter licensed premises, an offence under s. 142ZZB: 'Providing a safe environment and preserving amenity' of the *Liquor Act* may be committed (see s. 13.7.1: 'Reporting incidents involving licensed premises' of this chapter).

Where a police banning notice is breached by the respondent:

- (i) being required to attend a court or government agency within the banned area;
- (ii) peacefully accessing public transport travelling through the banned area; or
- (iii) travelling peacefully through a banned area by a main road to a location beyond the area,

it would not be in the public interest to commence a prosecution (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual).

A QPRIME generated 'Liquor Incident Report' is to be furnished outlining the circumstances of the matter, with a view to possible show cause or prosecution action being taken by Office of Liquor and Gaming Regulation if a prosecution is not commenced by the investigating officer (see s. 13.7.1: 'Reporting incidents involving licenced premises' of this chapter).

13.7.6 Court-issued banning orders

At the conclusion of a proceeding, a court may issue a banning order under s. 43J: 'Making a banning order' of the *Penalties and Sentences Act* (PSA) if:

- (i) the offender has been found guilty of an offence:
 - (a) that involved the use, threatened use, or attempted use of unlawful violence to a person or property; or
 - (b) against ss. 5: 'Trafficking in dangerous drugs' and 6: 'Supplying dangerous drugs' of the *Drugs Misuse Act*.
- (ii) the court is satisfied that the offence was committed in licensed premises or in the vicinity of licensed premises; and
- (iii) the court is satisfied that, unless the order was made the offender would pose an unacceptable risk to:
 - (a) the good order of licensed premises and areas in the vicinity of licensed premises; or
 - (b) the safety and wellbeing of persons attending licensed premises and areas in the vicinity of licensed premises.

A court may make a banning order:

- (i) in addition to any other order made under the PSA or any other Act; and
- (ii) whether or not a conviction was recorded for the relevant offence.

A court may:

- (i) cancel or amend a current police banning notice issued to the offender; or
- (ii) direct an offender to attend a police station within 48 hours to be photographed in accordance with Chapter 19, Part 5B: 'Photographing persons and distributing orders and images' of the PPRA (see s. 13.7.7: 'Imaged orders' of this chapter).

Officers should note the court may make additional conditions or exemptions in the order to allow the person reasonable access to licensed premises or their vicinity.

Where the provisions of s. 43J: 'Making a banning order' of the PSA apply, investigating officers should request the prosecutor make a submission for the issue of a court banning order (see also s. 3.7.19: 'Banning orders' of this Manual).

When a banning order is to be sought, investigating officers are to complete a QP 0875: 'Instructions to prosecutor for a banning order submission' and attach a copy of the completed document to the Court Brief (QP9) or full brief (see s. 3.7.19 of this Manual). An electronic copy of the completed QP 0875 is to be uploaded into the QPRIME occurrence relating to the submission.

Banning order issued by a magistrates court

A banning order issued by a magistrates court will be forwarded (within 48 hours) to the Police Information Centre (PIC), Legal Division via the Queensland Wide Interlinked Courts System (QWIC) within a QPRIME task. Any further court documentation will be emailed by the court to PIC within 48 hours of the order being issued.

The PIC is responsible for recording all statewide liquor related court banning orders into QPRIME and any relevant workflows, which are to be completed within one business day of the order being received from the issuing court.

Banning order not received within 48 hours from the court

A member of PIC is to contact the Drug and Alcohol Coordination Unit (DACU) if a court banning order has not been received by PIC within 48 hours of it being issued.

Breach of banning order

If a banned person breaches a condition of a court-issued banning order without reasonable excuse, they commit an offence and may be charged under s. 43O: 'Contravention of a banning order' if an order under the PSA is in place.

Where a licensee, permittee, manager or employee of licensed premises knowingly allows a banned person to enter licensed premises, an offence under s. 142ZZB: 'Providing a safe environment and preserving amenity' of the *Liquor Act* may be committed.

A QPRIME generated Liquor Incident Report is to be furnished outlining the circumstances of the matter, with a view to possible show cause or prosecution action being taken by Office of Liquor and Gaming Regulation if a prosecution is not commenced by the investigating police officer (see s. 13.7.1: 'Reporting incidents involving licensed premises' of this chapter).

Appeals and applications to vary or revoke banning orders

An application to vary or revoke a court-issued banning order may be made by the offender named in a banning order under s. 43L: 'Amending or revoking banning order' of the PSA or a police officer to a magistrates court. The person named in the order may apply to have the order varied or revoked only after it has been in force for six months.

13.7.7 Imaged orders

An officer may detain a person for a reasonable time to take a banning order photograph at a Service vehicle, watch-house or station (see s. 602S: 'Power to detain and photograph' of the PPRA).

A banning order photograph taken for a particular banning order may be attached to a different banning order, for the relevant person (see s. 13.7.8: 'Distribution of imaged orders by police' of this chapter).

Where an officer has a camera or QLITE device in their possession, a banning order photograph can be taken at the time of issuing a Form 400: 'Initial police banning notice'.

An officer who takes a banning order photograph is to:

- (i) scan the photograph into the Person Record as a new Person Description in the relevant QPRIME occurrence/street check relating to the banning order and the reason set as 'banning notice' to ensure transfer of the photograph across to all approved ID Scanners; and
- (ii) create a custody report within the relevant QPRIME occurrence/street check.

Destruction of banning order photographs

Where an officer becomes aware a banning order has expired and the banning order photograph has not been deleted from QPRIME, a QPRIME 'QPS Request correction to record(s)' task is to be sent from the relevant occurrence/street check to the Data Investigation Team [3270] (see s. 602V: 'Commissioner to destroy image' of the PPRA).

13.7.8 Distribution of imaged orders by police

In accordance with s. 602U: 'Distribution of imaged order or police banning notice' of the PPRA, an officer may distribute an imaged order to:

- (i) the licensee or approved manager of any licensed premises stated in the order;
- (ii) the licensee or approved manager of any licensed premises within a class of licensed premises stated in the order;
- (iii) the approved manager or the person authorised to sell liquor for consumption at an event stated in the order;
- (iv) the Commissioner for Liquor and Gaming; and
- (v) an approved operator for an approved ID scanning system (see s. 173EE: 'Definitions for pt 6AA' of the *Liquor Act*).

The authority to distribute the imaged order has been delegated by the Commissioner to:

- (i) the Manager, Police Information Centre (for distributing imaged orders to ID scanners);
- (ii) the State Liquor Unit Coordinator (DACU);
- (iii) a regional, district or divisional Liquor Unit representative;
- (iv) any commissioned officer;

(v) the OIC of a station or establishment; or

(vi) a shift supervisor,

(see Delegations D 2.4 and D 124.1).

Process for distributing imaged orders (police banning notices, court banning orders and bail condition bans)

The Service is responsible for providing imaged orders to the Office of Liquor and Gaming Regulations (OLGR). Through QPRIME this information is electronically distributed to the approved ID scanners located in regulated premises every 30mins. For banning data to transfer successfully to the approved ID Scanners data is to be correctly entered into QPRIME.

(See QPRIME User Guide: 'Banning Provisions' for further information on how to enter a Police Banning Notice)

At licensed premises or events where approved ID scanning systems are not in operation, imaged orders may be distributed to licensed premises or events by other methods such as email or physical delivery.

Where a licensed premises, class of licensed premises or event is named or described in an imaged order an officer may distribute the imaged order to the licensee, approved manager or authorised person of the licensed premises or event either personally or electronically.

The officer distributing the imaged order is to inform the licensee, approved manager or authorised person the imaged order is:

(i) to be destroyed as soon as practicable after the order expires; and

(ii) not to be used for a purpose other than preventing entry of the named person to the premises,

(see s. 602W: 'Other persons who must destroy imaged order or police banning notice' of the PPRA).

Letters and emails for the distribution of imaged orders are to be prepared in accordance with the proforma documents available from the Drug and Alcohol Coordination Unit webpage on the Service Intranet.

Where an officer identifies any issues with the distribution of any imaged orders relevant to a licensed premises or safe night precinct, the officer is to contact the Drug and Alcohol Coordination Unit (DACU), Policy and Performance Division.

Officers not to distribute imaged orders directly to an approved operator

Officers are not to distribute imaged orders directly to an approved operator (ID Scanner Company) for them to investigate, upload or record on any approved ID Scanning System.

13.7.9 Intoxicated in a public place

Section 10: 'Being intoxicated in a public place' of the *Summary Offences Act* provides a person must not be intoxicated (see SMD) in a public place.

Officers should use their discretion when considering what action is to be taken against a person who is found intoxicated in a public place. Should a person be located in need of assistance, then a Police Referral to the appropriate agency should first be considered (see s. 6.3.14: 'Police referrals' of this Manual).

Officers should also be mindful that a number of medical conditions may produce signs and symptoms similar to intoxication (see Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this Manual).

Officers should not arrest persons for being intoxicated in a public place, unless they consider that it is necessary to arrest the person to preserve the safety or welfare of any person, including the person arrested (see s. 365(1)(g): 'Arrest without warrant' of the PPRA).

Officers who arrest a person for being intoxicated in a public place are to comply with the provisions of s. 16.6.3: 'Intoxication' of this Manual.

13.7.10 Issue of infringement notices under the Liquor Act

Issuing liquor infringement notices is restricted to relevant offences listed in Schedule 1: 'Infringement notice offences and fines for nominated laws' of the State Penalties Enforcement Regulation. Officers should focus on offences related to the preservation of peace and good order.

Officers may forward information by submitting a Liquor Incident Report to the Office of Liquor and Gaming Regulation (OLGR) concerning offences under the *Liquor Act* (LA) that may not warrant immediate police action for the purposes of having action taken by that agency (see s. 13.7.1: 'Reporting incidents involving licensed premises' of this chapter).

The roles of the Office of Liquor and Gaming Regulation and State Penalties Enforcement Register

The OLGR is the data collection agency and payment receipt authority for infringement notices under the LA and Liquor Regulation up to the point when the notices are forwarded to the State Penalties Enforcement Registry (SPER). The OLGR will accept payment up to the 28th day after their reminder notice has been issued, after which, the matter is transferred to the control of SPER.

Requests for infringement notices books are to be made direct to OLGR (see SMCD).

Further information with respect to the issue of infringement notices under the LA is available from the SPER Enforcement Officer, OLGR (see SMCD).

Issuing of infringement notices

Infringement notices against the LA should be issued in accordance with s. 13.15: 'Issue of infringement notices generally' of this chapter.

The issue of infringement notices to an offender is restricted to a maximum of three infringement notices for offences against the LA at any one time. If more than three offences against the LA are detected for which an infringement notice can be issued to an offender, see 'Limit on number of infringements issued' of s. 13.15: 'Issue of infringement notices generally' of this chapter.

Distribution of infringement notices

Distribution of infringement notices is as follows:

- (i) white original prosecutions copy to be forwarded by the relevant OIC to OLGR within five days of issue, with an acknowledgement slip;
- (ii) blue duplicate office copy to be filed at issuing officers station; and
- (iii) yellow triplicate copy to be given to offender.

13.7.11 Liquor and minors

Investigations of offences against s. 156A of the Liquor Act

Where a minor is detected in possession of alcohol at a private place and is not in the company of a responsible adult, officers should consider the offences against s. 156A: 'Irresponsible supply of liquor to a minor at a private place etc.' of the *Liquor Act* (LA).

While the detection of a minor in possession of alcohol may indicate an offence against s. 156A: 'Irresponsible supply of liquor to a minor at a private place' of the LA, officers should also consider the possibility that the alcohol may have been:

- (i) stolen, or otherwise taken by the minor without the owner's consent or knowledge;
- (ii) fraudulently obtained by the child (i.e. obtained from a licensed liquor supplier while purporting to be an adult); or
- (iii) given to the child outside of Queensland (no offence may have been committed in this jurisdiction).

It is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person however, it is immaterial of whether it may tend to incriminate another person (e.g. a child incriminating the adult who supplied the alcohol) (see s. 183: 'Power to require answers to questions' of the LA).

Where officers are investigating an offence against s. 156A: 'Irresponsible supply of liquor to a minor at a private place' of the LA, in accordance with s. 53A: 'Seizure of liquor from a minor in particular circumstances' of the PPRA, officers may seize and dispose of the liquor in a way the officer considers reasonably necessary.

Where the liquor has been stolen, fraudulently obtained or otherwise taken without the knowledge or consent of the rightful owner, officers may consider returning the liquor as opposed to seizing or immediately disposing of it.

Upon seizing liquor under the provisions of s. 53A: 'Seizure of liquor from a minor in particular circumstances' of the PPRA, officers are to:

- (i) comply with s. 13.7.12: 'Seizure and disposal of liquor' of this chapter; and
- (ii) create a 'Liquor' type intelligence/street check report in QPRIME detailing the circumstances of the seizure and amount of liquor seized. The words 'PPRA s53A' are to be recorded in the 'Summary' field of the QPRIME record.

Investigations of offences under s. 157(2) of the Liquor Act

Where a minor is detected in possession of alcohol in licensed premises or a public place, officers should conduct investigations under s. 157(2): 'Prohibitions affecting minors' of the LA. In addition to any investigation under the LA, s. 53: 'Prevention of particular offences relating to liquor' of the PPRA authorises officers to immediately seize and dispose of the liquor in a way the officer considers reasonably necessary.

Upon seizing liquor under the provisions of s. 53 of the PPRA, officers:

- (i) are to comply with s. 13.7.12: 'Seizure and disposal of liquor' of this chapter; and
- (ii) should create a 'Liquor' type intelligence/street check report in QPRIME detailing the circumstances of the seizure and amount of liquor seized.

Considerations under ss. 53 and 53A of the Police Powers and Responsibilities Act

Officers should note the following points:

- (i) an officer is to be lawfully at a private place to utilise the powers under s. 53A: 'Seizure of liquor from a minor in particular circumstances' of the PPRA;
- (ii) ss. 53 or 53A of the PPRA does not provide a power to search a person, vehicle or place;
- (iii) seizure of liquor under ss. 53 or 53A of the PPRA is not a prescribed circumstance for the purpose of s. 60: 'Stopping vehicles for prescribed purposes' of the Act; and
- (iv) while s. 53B: 'Entry powers for vehicles referred to in ss. 53 and 53A' of the PPRA provides a power to enter a vehicle in certain circumstances, the application is limited to situations where an officer is outside a vehicle, which is not being used as a dwelling, and is already exercising a power at the place under ss. 53 or 53A of the PPRA; and
- (v) enforcement register entries do not apply to the seizure of liquor from a minor under ss. 53 or 53A of the PPRA.

13.7.12 Seizure and disposal of liquor

Liquor Act

Where liquor is seized as part of an investigation under the *Liquor Act*, a QPB32A: 'Field Property Receipt' should be issued and the liquor lodged at a property point and disposed of in accordance with s. 4.6.3: 'Direction for disposal of forfeited property' of this Manual.

Police Powers and Responsibilities Act

Where liquor is seized from a person under:

- (i) s. 53: 'Prevention of particular offences relating to liquor'; or
- (ii) s. 53A: 'Seizure of liquor from a minor in particular circumstances',

of the PPRA, it is immediately forfeited to the State and may be disposed of in a way the officer considers reasonably necessary.

Liquor seizure

Notwithstanding ss. 53(4)(b) and 53A(5)(b) of the PPRA, generally, officers have two options with respect to the liquor seized under the PPRA, namely:

- (i) immediate disposal of the liquor (e.g. empty the alcohol from the container onto the ground); or
- (ii) lodging liquor at a property point and disposal in accordance with this section.

Where liquor is immediately disposed of, officers should:

- (i) make a record of:
 - (a) the place where the liquor was seized and whether it is a public place or not;
 - (b) the name of the person who the liquor was seized from;
 - (c) the type and quantity of liquor destroyed;
 - (d) how the liquor was destroyed; and
 - (e) if practicable, the signature of the person the liquor was seized from adopting a record of its destruction, in their official police notebook; and
- (ii) dispose of the liquor by emptying it from its containers in a suitable area at or near the place of seizure and dispose of the containers in an appropriate manner (e.g. rubbish bin).

Where liquor is seized and lodged at a property point, a Field Property Receipt should be issued and the liquor should be disposed of in accordance with this section.

Disposal of liquor

For the purposes of this section:

Saleable liquor

means liquor which is in a sealed container which can be legally sold in Queensland (not home-made or prohibited liquors).

Other than liquor seized and immediately disposed of under ss. 53 or 53A of the PPRA, saleable liquor is to be disposed of by public auction (see s. 4.6.18: 'Public auction procedures' of this Manual).

Unsaleable liquor is to be destroyed in accordance with 'Disposal by way of destruction' of s. 4.6: 'Disposal of property' of this Manual.

13.7.13 Liquor Act exempt fundraising events and small regional shows

Section 13: 'Exemption for the sale of liquor at fundraising event' of the *Liquor Act* (LA) authorises eligible entities holding low-risk community fundraising events and small regional shows to sell liquor without a liquor licence or permit under the Act. There is no requirement for event organisers to provide notification to the Service.

Members of the public organising a LA exempt fundraising event or small regional show may register their event with the Service through Policelink or QPS internet (see s. 1.7.7: 'Party Safe' of this Manual).

Members receiving a request from a member of the public:

- (i) for information on whether an event is a LA exempt fundraising event or small regional show are to refer them to the Office of Liquor and Gaming Regulation; and
- (ii) to register an event in person are to refer the person to the 'Event Safe' webpage on the QPS internet or to telephone Policelink.

Officers in charge of a station receiving notification of a registered Event Safe event for a LA exempt fundraising event or small regional show should refer to the 'Divisional guide for responding to Liquor Act exempt fundraising events', available on the Drug and Alcohol Coordination Unit webpage on the Service Intranet.

13.8 Marine environment

13.8.1 Deleted

13.8.2 Maritime Safety Queensland

Maritime Safety Queensland (MSQ) is a Queensland Government law enforcement agency. Its key strategic outcomes are the safety of:

- (i) vessels and their operations;
- (ii) vessel movements; and
- (iii) the environment through the prevention of marine pollution.

Among other things, MSQ regulates the marine industry to ensure marine safety and administers the:

- (i) *Transport Operations (Marine Safety) Act* (TO(MS)A);
- (ii) *Transport Operations (Marine Safety) Regulation* (TO(MS)R);
- (iii) *Transport Operations (Marine Pollution) Act* (TO(MP)A);
- (iv) *Transport Operations (Marine Pollution) Regulation* (TO(MP)R).

Maritime Safety Queensland has specialist personnel that may be able to assist the Service in the investigation of maritime incidents, for example:

- (i) determining the seaworthiness of vessels;
- (ii) conducting stability tests;
- (iii) ship surveys or advice on safety standards;
- (iv) navigation and navigational aides; and
- (v) the presentation of court cases.

Service requests for such assistance are to be directed to the Manager, MSQ Compliance Unit or the Director, Executive Services and Compliance (see SMCD).

Maritime Safety Queensland shipping inspectors have the power to board, enter, search, inspect, remove items, make inquiries and seize evidence concerning a ship, vehicle or place pursuant to the provisions of TO(MS)A.

Maritime Safety Queensland authorised officers have the power to board, enter, search, inspect, remove items, make inquiries and seize evidence concerning a ship, vehicle or place pursuant to the provisions of TO(MP)A.

POLICY

Where a MSQ shipping inspector or authorised officer seeks assistance from the Service to exercise these powers, in accordance with s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA, officers are to assist to the extent they are able.

Liaison and consultation

POLICY

Maritime Safety Queensland and water police officers are jointly responsible for conducting operations and ongoing consultation with regard to marine safety and enforcement.

The Service and MSQ should conduct:

- (i) an annual management review of jointly operated enforcement and safety processes;
- (ii) a monthly reporting of data relevant to marine law enforcement including the number of:
 - (a) ship intercepts;
 - (b) marine incidents investigated;
 - (c) marine incidents prosecuted, including results; and
 - (d) Marine Infringement Notices (MIN) issued (see s. 13.15: 'Issue of infringement notices generally' of this chapter),
- (iii) consultation regarding the development and implementation of:
 - (a) policies and procedures;
 - (b) enforcement strategies; and
 - (c) education and technical training strategies for both officers and the general public, relating to marine safety and maritime enforcement; and
- (iv) marine incident investigations in consultation between the organisations whenever appropriate (see s. 13.8.3: 'Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation').

ORDER

An officer in charge of a water police establishment or an area with marine enforcement responsibilities is to, whenever appropriate or possible, work in consultation with the relevant regional MSQ office.

13.8.3 Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation

Shipping inspectors

Investigations into offences under the *Transport Operations (Marine Safety) Act* (TO(MS)A) are to be carried out by persons appointed as shipping inspectors under the TO(MS)A.

Pursuant to s. 157: 'Appointment of shipping inspectors' of the TO(MS)A, the General Manager, Maritime Safety Queensland (MSQ) may appoint police officers, or a class of police officers, and other persons as shipping inspectors. Such appointments may only be made with the written approval of the Commissioner (see s. 131 of the PPRA).

Police officers attached to water establishments will generally be individually appointed as shipping inspectors and may perform all functions of that role, including the investigation of marine incidents.

Other police officers, who have completed an approved training course, may be appointed as a shipping inspector, but are generally restricted from investigating marine incidents (see s. 156: 'Limitation on powers of a shipping inspector' of the TO(MS)A).

All Queensland Boating and Fisheries Patrol officers, many MSQ officers and certain Department of Transport and Main Roads officers are appointed as shipping inspectors.

Only officers who have been appointed as shipping inspectors under the TO(MS)A should conduct investigations which require the exercising of powers of a shipping inspector.

Marine offences

Officers appointed as shipping inspectors who detect an offence against the provisions of the TO(MS)A or Transport Operations (Marine Safety) Regulation (TO(MS)R) and are of the opinion that a prosecution should be considered, should:

- (i) if appropriate, issue a TMR Form F3463: 'Infringement Notice (Marine)' (see s. 13.15: 'Issue of infringement notices generally' of this chapter); or
- (ii) commence proceedings in relation to an offence against TO(MS)A or TO(MS)R by way of notice to appear, complaint and summons or by arrest, where authorised under the provisions of the PPRA. A copy of the Court Brief (QP9) is to be forwarded to the Manager, Compliance Unit, MSQ (see SMCD).

Officers not appointed as shipping inspectors who detect an offence against the provisions of the TO(MS)A or TO(MS)R and are of the opinion that a prosecution should be considered, should furnish a report outlining the circumstances surrounding the offence through their officer in charge for referral to:

- (i) if practicable, the nearest water police establishment within their region, if further investigations requiring the powers of a shipping inspector are required; or
- (ii) otherwise, the Manager, Compliance Unit, MSQ.

The report should include:

- (i) the identity of any witnesses;
- (ii) any conversation with the offender in relation to the specific offence, related in the third person;
- (iii) the circumstances of the offence; and
- (iv) full details of vessel(s) used in the commission of the offence, which may include make, size, type of vessel and motor and registration number.

Where an officer is unsure whether an offence has been committed against the provisions of TO(MS)A, inquiries should be conducted with a water police establishment, MSQ regional office or the Manager, Compliance Unit, MSQ (see SMCD).

It is permissible for officers not appointed as shipping inspectors to commence proceedings in relation to an offence against the TO(MS)A or the TO(MS)R by way of notice to appear, complaint and summons or by arrest, where authorised under the provisions of the PPRA and if the circumstances necessitate such action.

If time permits, officers should liaise with officers attached to the Compliance Unit, MSQ prior to commencing such prosecutions. Officers commencing proceedings against a person for an offence under the TO(MS)A or TO(MS)R should:

- (i) notify the Manager, Compliance Unit, MSQ or
- (ii) if the proceedings relate to an offence(s) detected during an investigation of a marine incident – the relevant harbourmaster;

of any action taken within twenty-eight days. Officers should also forward to this person a copy of the relevant Court Brief (QP9) endorsed with the court result at the conclusion of any proceeding commenced under this policy.

Marine incidents

Marine incidents relate to incidents involving ships. Section 10(1): 'Meaning of ship' of the TO(MS)A defines the term 'ship' as:

'...any kind of boat or other vessel used, or intended to be used, in navigation by water or for any other purpose on water.'

The broad application of the term 'ship' under the TO(MS)A means that a marine incident may involve a minor collision between two dinghies being used for recreational fishing, or a life endangering collision between two commercial ships, such as a fuel tanker and a container or car carrier, of many thousands of tons displacement each.

Officers should be aware that an incident on any watercourse in the State is deemed to be a marine incident. A boating incident on an inland waterway requires the same reporting to MSQ as an incident on Moreton Bay.

Because of the broad range of circumstances which may constitute a marine incident, the investigation of them may involve a number of different state and commonwealth agencies. Cooperation with these agencies is essential to ensure every aspect of a marine incident is thoroughly investigated.

Officers who attend marine incidents when:

- (i) the incident involves:
 - (a) the loss of a person from a ship;
 - (b) a death or when there is a likelihood of death resulting from injuries received;
 - (c) injuries where grievous bodily harm is caused or likely to be caused; or
- (ii) the incident involves or may involve indictable criminal offences; or
- (iii) MSQ shipping inspectors request assistance,

are to create an occurrence in QPRIME.

Any investigations involving the Service and MSQ shipping inspectors are to:

- (i) be conducted in liaison with the shipping inspector; and
- (ii) include regular briefings with the shipping inspector outlining of the status of any investigations and prosecutions undertaken.

Officers requiring information on the status of any investigation or prosecution undertaken by MSQ shipping inspectors should contact the:

- (i) relevant shipping inspector conducting the investigation;
- (ii) MSQ regional office conducting the investigation; or
- (iii) Manager, Compliance Unit or the Director, Executive Services and Compliance.

Pursuant to s. 126: 'Investigation process into marine incident' of the TO(MS)A, the General Manager may require a shipping inspector to investigate a marine incident. Upon such a requirement, after finishing the investigation the shipping inspector must report the results of the investigation to the General Manager.

ORDER

A police officer appointed as a shipping inspector should only investigate marine incidents:

- (i) involving the loss of a person from a ship;
- (ii) involving a death or when there is a likelihood of death resulting from injuries received;
- (iii) involving injuries where grievous bodily harm is caused or likely to be caused;
- (iv) where the incident involves or may involve indictable criminal offences; or
- (v) where the Service has determined an investigation is to be conducted by a police officer.

If it is not considered appropriate for an officer appointed as a shipping inspector to conduct an investigation into a marine incident, the investigating officer is to ensure, wherever practicable, that an officer appointed as a shipping inspector assists in such investigation.

If it is not practicable for an officer appointed as a shipping inspector to assist in the investigation of a marine incident, the investigating officer is to ensure that the officer in charge of the nearest regional water police establishment to the location where the incident occurred is advised of the investigation as soon as practicable after the decision to conduct the investigation has been made.

Officers who become aware of marine incidents where any person has been killed, injured, lost at sea, or where there has been damage to property, are to ensure that the following agencies are advised of the incident:

- (i) the respective regional harbour master (contact through the relevant MSQ regional office) and/or the Manager, Compliance Unit MSQ if the incident involves a ship connected to Queensland (see s. 6: 'Meaning of ship connected with Queensland' of the Act). The regional office boundaries are listed on the MSQ website;
- (ii) the Duty Officer, Australian Transport Safety Bureau (ATSB), if the incident involves an interstate or overseas trading vessel (Marine Safety Investigation in Australia);
- (iii) the Duty Officer, Australian Maritime Safety Authority (AMSA) if the marine incident (including pollution incidents) occurs in the outer adjacent area (see s. 2.5.9: 'Offences committed at sea' of this Manual) and involve an Australian or foreign flagged ship;
- (iv) if the marine incident may have occurred at a workplace (see s. 8: 'Meaning of workplace' of the *Work Health and Safety Act*), a local work health and safety inspector.

Contact details for the relevant agencies are included in the SMCD.

The Service is responsible for the investigation of marine incidents involving death, serious injury or criminal offences. Maritime Safety Queensland will provide support and technical assistance to the Service as required throughout the investigation. Through negotiation MSQ may assume the primary investigation role of marine incidents involving serious injury or fire where no criminality or other police investigation is required.

When advised by a member of the Service, the:

- (i) regional harbour master or Manager, Compliance Unit MSQ;
- (ii) Duty Officer, ATSB;
- (iii) Duty Officer, AMSA; and
- (iv) local work health and safety inspector, Department of Justice and Attorney-General,

will notify the member, as to whether they will be conducting an investigation into the incident.

Where an external investigator advises they will attend the incident, officers are to ensure the scene of the incident is preserved.

Where an external investigator is unable to attend the marine incident site within a reasonable time, officers are to undertake preliminary investigations on behalf of the relevant investigator, if requested. Preliminary investigations may include the collection of photographs of the scene, witness statements, collection of evidence and notations on observations of the scene. What constitutes a reasonable time will depend on the individual circumstances of the incident and location.

The respective regional harbour master and/or the Manager, Compliance Unit MSQ will:

- (i) advise the Service whether they will be conducting a complementary and/or a separate investigation into the incident;
- (ii) as is reasonably practicable, provide the Service with assistance including post incident investigative and specialist advice and maritime support services;
- (iii) in order to optimise resources, to ensure public safety and to best serve the interests of the community, consideration may be given to the Service and MSQ conducting a conjoint investigation. For example, a fatal marine incident where a coronial inquest is likely will include potential maritime safety as well as criminal liability factors.

The ATSB has the function of investigating the circumstances surrounding any marine incident to prevent the occurrence of other incidents. In practice, the ATSB reviews the nature and circumstances of any marine accident or incident reported to it and determine the probable safety value in conducting an on-site investigation. Australian Transport Safety Bureau investigators do not investigate marine incidents with a view to apportioning blame or liability. Consequently the report of an ATSB investigator may not address the issues of interest to an investigating police officer. Australian Transport Safety Bureau investigators may assist officers with advice, but they cannot be compelled to appear in court, or provide 'restricted information' to investigators (see s. 60: 'Limitations on disclosure etc. of restricted information' of the *Transport Safety Investigation Act* (Cwlth)).

The AMSA:

- (i) administers and regulates marine safety legislation on the Commonwealth waters which border Queensland waters;
- (ii) monitors compliance with marine environment protection and response to marine environment pollution; and
- (iii) provides maritime and aviation search and rescue services.

Its powers lay in the *Navigation Act* (Cwlth) and the *Protection of the Sea (Prevention of Pollution from Ships) Act* (Cwlth).

See s. 8.5.6: 'Workplace or electrical incidents causing or likely to cause grievous bodily harm or death' of this Manual for policy and procedures relating to conducting investigations in liaison with work health and safety inspectors.

See s. 2.5.9: 'Offences committed at sea' of this Manual for policy, procedures and intergovernmental agreements relating to the investigation of offences occurring at sea.

Officers intending to investigate a marine incident should:

- (i) if the incident involves a commercial or recreational ship:
 - (a) if it is considered that the incident can be adequately investigated by a police officer appointed as a shipping inspector – investigate the matter, taking any necessary enforcement action, and ensure that the relevant harbour master is notified of the incident as soon as practicable; or
 - (b) if it is considered that aspects of the incident require investigation by persons with particular skills and/or authority not available to police (e.g. MSQ officers investigate the aspects which can be adequately investigated by police (e.g. suspect UIL); and
 - (c) make preliminary inquiries into the remaining aspects and ensure that the relevant harbour master is notified of the incident as soon as practicable. In such a case, and if appropriate, the relevant harbour master may refer the matter for investigation to a suitable agency or agencies; and
- (ii) in addition to conducting any investigations and taking any necessary enforcement action with respect to the marine incident, advise the owner or master of the vessel concerned that they are required to complete a Form F3071: 'Marine Incident Report' and deliver it to a MSQ regional office (see SMCD) within 48 hours of the incident.

A Form F3071 can be downloaded from the MSQ marine incident website or is available at all water police establishments, Queensland Boating and Fisheries Patrol stations, and MSQ regional offices.

Additionally, if the marine incident involves (a '**Category 1 marine incident**')

- (i) total loss or theft of any ship more than 15 metres long;
- (ii) stranding, collision or major fire on board a passenger ship or any ship more than 24 metres long;
- (iii) missing persons, or serious injury or death of any person;
- (iv) a ship under the command of a marine pilot, harbour master, or master exempted from requiring a marine pilot whilst the ship is in a marine pilotage area; or
- (v) any other incident considered to be of major significance;

officers becoming aware of the incident should, as soon as possible, notify the relevant harbourmaster, by telephone or email (during business hours), of the marine incident.

In such a case, notification to a work health and safety inspector may also be required (see s. 8.5.6: 'Workplace or electrical incidents causing or likely to cause grievous bodily harm or death' of this Manual). For a marine incident involving the death of a person, see s. 8.5.7: 'Deaths on board vessels' of this Manual.

Officers not appointed as shipping inspectors who detect or become aware of a marine incident should ensure that the officer in charge of the water police establishment and MSQ regional office (MSQ regional office boundaries) nearest to the location where the incident happened is advised of the marine incident:

- (i) within forty-eight hours after they become aware of the incident happening; or
- (ii) if the incident is a Category 1 marine incident – as soon as possible after becoming aware of the marine incident happening.

Where a marine incident involves a police officer or Service vessel see s. 13.8.5: 'Investigation of marine incidents involving officers or Service vessels' of this chapter.

Information exchange

In the course of an investigation of a marine incident, MSQ shipping inspectors may request information held by the Service. Information held by the Service must be accessed for official purposes only. When supplying information to MSQ, officers are to comply with s. 5.6.15: 'Requests for information from other law enforcement agencies' of the Management Support Manual and s. 13.8.2: 'Maritime Safety Queensland' of this chapter.

Material relating to an investigation that may be requested includes:

- (i) witness statements;
- (ii) photographs of the scene;
- (iii) sketches and notes made at/of the scene;
- (iv) police officer's statements;
- (v) measurements and other tests/examinations performed;
- (vi) any other facts relating to the incident;
- (vii) documents obtained that are required to be kept under any Service policy, procedures or legislation;
- (viii) legal, statutory or other privileged documents, e.g. expert reports (legal advice of QPS Legal Services release to be approved by Deputy Commissioner, Specialist Operations);
- (ix) commercially sensitive material, e.g. tender documents, project specifications, contracts and safety plans;
- (x) documents that have been received from another department or agency; and
- (xi) documents that contain statements provided 'In confidence', e.g. where a person wants their confidentiality to be maintained.

Generally, any material that contains facts relating to a marine incident (items (i) to (vi) listed above) can be forwarded directly through the officer in charge of the station or establishment to the MSQ shipping inspector requesting the material.

If information sought by MSQ is confidential, likely to impact on Service operations in some adverse manner or subject to legal, statutory or other privilege, (material in items (vii) to (xi) above) or in the situation where the Service is the employer in relation to the marine incident, the officer in charge of the region or command must give approval for the information to be released.

Both the Service and MSQ shipping inspectors have power to seize property as evidence during an investigation. Reasonable access to the evidence seized by the Service during the course of investigating a marine incident is to be granted to MSQ shipping inspectors when requested. Members of the Service wanting to access exhibits held by MSQ are to contact the relevant MSQ inspector.

Evidence seized from a marine incident may require an external examination or test to be performed for investigative or court purposes. If the Service requires the examination, the Service is to pay the associated costs.

If MSQ shipping inspectors require the external examination, the costs are to be met by their agency regardless of the fact the Service may hold possession of the evidence.

If the Service and MSQ shipping inspectors require an external examination on any evidence, the cost may be shared between agencies.

13.8.4 Fisheries management (offences detected)

Police officers may only exercise the powers of an Inspector under the *Fisheries Act* (FA) if they:

- (i) have been appointed as an Inspector pursuant to s. 140: 'Appointment' of the FA; and

(ii) that appointment has been approved by the commissioner pursuant to s. 13: 'Appointment of police officers as public officials for other Acts' of the PPRA.

Police officers however may exercise their general powers under the PPRA when investigating offences against the FA.

POLICY

Investigations and prosecutions should normally be undertaken by officers of the Department of Agriculture and Fisheries (DAF) or police officers who are appointed as Inspectors under the FA.

When police officers detect an offence committed against the provisions of the FA and are of the opinion that a prosecution should be considered, they are to furnish a Court Brief (QP9) through their officer in charge to the Manager, Statutory Compliance and Investigations, DAF. The Court Brief (QP9) should include:

- (i) the identity of any witnesses;
- (ii) any conversation with the offender in relation to the specific offence, related in the third person;
- (iii) the circumstances of the offence; and
- (iv) details of any instruments seized.

The matter will be considered with further action being taken by DAF officers, where applicable.

Generally, police officers should liaise with staff from the Statutory Compliance and Investigations, DAF prior to instituting any proceedings. However, it is permissible for police officers to institute proceedings if circumstances necessitate such action. Such circumstances may include instances where the suspect is transient and/or is being arrested for other matters.

Where circumstances necessitate action to be taken by police prior to appropriate liaison with the Statutory Compliance and Investigations, officers are to notify the Statutory Compliance and Investigations, DAF of such action, as soon as practicable and prior to the first court appearance of the defendant.

13.8.5 Investigation of marine incidents involving members or Service vessels

POLICY

Investigations of marine incidents involving Service vessels are to be overseen by the officer in charge of the region or command to which the involved vessel is attached.

The oversight of an investigation into a marine incident may be delegated by an officer in charge of a region or command to a commissioned officer.

Officers in charge of regions and commands who are responsible for Service vessels, should ensure that local instructions are established within their area of responsibility to provide procedures for the attendance, where practicable, of officers at marine incident scenes and for the investigation of marine incidents involving Service vessels. Such procedures should include a list of persons with suitable marine qualifications or experience who may be relied upon to conduct and/or assist in such investigations (e.g. officers appointed as shipping inspectors).

Members who are in charge of Service vessels which are involved in marine incidents are to:

- (i) in the case of incidents occurring in areas where a Police Communications Centre (PCC) exists, advise the relevant PCC of the nature and location of the incident as soon as practicable; or
- (ii) in the case of incidents occurring in other locations, advise their officer in charge of the nature and location of the incident as soon as practicable.

Members who receive advice that a Service vessel has been involved in a marine incident are to arrange for a commissioned officer to be notified of the incident.

Commissioned officers who are notified of marine incidents involving Service vessels are to ensure that:

- (i) an investigation of the incident is commenced forthwith (see s. 13.8.3: 'Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation' of this chapter);
- (ii) offences pursuant to s. 79: 'Vehicle offences involving liquor or other drugs' of the *Transport Operations (Road Use Management) Act* are appropriately investigated; and
- (iii) the incident is reported to MSQ within 48 hours of occurring pursuant to s. 125: 'Marine incidents must be reported' of the *Transport Operations (Marine Safety) Act*.

Officers investigating marine incidents involving Service vessels are to ensure a completed copy of the Transport and Main Roads (TMR) Form F 3071: 'Marine Incident Report' (available from MSQ) is provided to the relevant overseeing officer, as part of the investigation report into the incident.

Commissioned officers who receive reports involving Service vessels are to:

- (i) ensure that any disciplinary breaches committed by officers are investigated; and

(ii) make recommendations to the relevant assistant commissioner as to any further action which should be taken in respect of the incident.

Investigation of serious marine incidents involving members or Service vessels

POLICY

The provisions of s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' of this Manual apply in cases of marine incidents involving Service vessels in which a person is killed or seriously injured.

The provisions of s. 17.5: 'Search and Rescue' of this Manual relating to marine search and rescue incidents may also apply in cases of marine incidents involving Service vessels.

13.8.6 Deleted

13.8.7 Marine towing incidents

The provisions of this section do not apply to any incident which constitutes a marine search and rescue operation (see s. 17.5: 'Search and rescue' of this Manual).

Requests to tow a ship

Service vessels (excluding Marine Rescue Queensland (MRQ) vessels, see MRQ Manual for relevant policy) are not to be used for towing ships which are not subject of a marine towing incident.

Members, other than members attached to a water police establishment, who receive a request for assistance to tow a ship, are to relay the details of the request to their local police communications centre (PCC) as soon as practicable after receiving the request.

The OIC of a PCC, or a member attached to a water police establishment who, receives a request for assistance to tow a ship are to ensure that information is relayed as soon as practicable to:

- (i) the OIC of the water police establishment;
- (ii) the shift supervisor or district duty officer of the water police establishment;
- (iii) the master of a Service vessel; or
- (iv) a search and rescue mission coordinator (SARMC), or assistant search and rescue mission coordinator (ASARMC) (see s. 17.5: 'Search and rescue' of this Manual);

with responsibility for the area in which the ship requiring a tow is located (the '**relevant officer**').

A relevant officer who receives a request to tow a ship is to, as soon as practicable after receiving the request, ensure a suitable response to the request is undertaken or, if considered necessary, relay the details of the request to a more appropriate relevant officer for suitable response.

A relevant officer responding to a request to tow a ship is to decide whether the incident constitutes a marine towing incident.

Where a marine towing incident exists, the relevant officer is to:

- (i) decide whether to use Service or other suitable resources to respond to the request; and
- (ii) take any necessary action to ensure appropriate assistance is provided to the ship and/or persons on board as soon as practicable.

In determining the level of response to a marine towing incident, relevant officers are to consider:

- (i) the danger or potential danger to the ship or any person on board the ship;
- (ii) the current and forecast weather and sea conditions;
- (iii) the time of day, including amount of remaining daylight;
- (iv) whether the ship is at anchor or drifting;
- (v) the location of the ship;
- (vi) the condition of the ship;
- (vii) the experience of the persons on board the ship; and
- (viii) the proximity of the ship to available assistance.

Where it is decided a request to tow a ship does not constitute a marine towing incident, the relevant officer is to ensure the person making the request is advised to make private arrangements for the tow.

Responsibility for determining extent of tow

Generally, a ship that is to be towed by a Service vessel is to be towed to a safe haven nearest to the location where the tow commenced.

Where a tow of a ship is being, or is to be performed by a Service vessel, the master of the Service vessel is responsible for determining:

- (i) whether to commence or continue with the tow; and
- (ii) whether to tow the ship to a safe haven other than the safe haven nearest to the location at which the tow commenced. In making such a determination, the officer is to consider, in addition to environmental and physical factors already considered with respect to the incident:
 - (a) whether the additional time taken for the tow will interfere with operational requirements;
 - (b) the financial cost to the Service; and
 - (c) whether the tow from the nearest safe haven to another safe haven could be readily performed by a suitable volunteer or commercial organisation.

Recovery of costs for tows

Volunteer marine rescue organisations including MRQ are responsible for the cost incurred when responding to marine towing incidents as a result of information received from members of the Service.

Recovery of costs by the Service associated with towing of ships by Service vessel should be considered in circumstances where:

- (i) there is no danger or potential danger to the ship and/or any person on board the ship to be towed; and
- (ii) the tow:
 - (a) involves a response to a marine towing incident where the services of a Service vessel have been requested in preference to other available towing services; or
 - (b) is to a safe haven nominated by the master or owner of the ship towed which is not the nearest safe haven to the location at which the tow commenced.

Calculation of costs for towing of a ship by a Service vessel is to be made using the special services charge out rate for officers involved (see s. 4.1.3: 'Accounting for special services revenue practice' of the Financial Management Practice Manual) and operating costs for the Service vessel as per the Schedule of Fees as approved annually by the Commissioner and published on the Financial Operations 'Receiving Money' webpage on the Service Intranet.

Prior to commencing the tow of a ship by a Service vessel, the master of the Service vessel is to consider if the tow should be subject to cost recovery. Where it is considered that the tow should be subject to cost recovery, before commencing the tow the master of the Service vessel should:

- (i) advise the person making the request for the tow of an estimate of the cost of the tow; and
- (ii) obtain a signed written agreement in their official police notebook from that person to pay all reasonable costs associated with the tow.

As soon as practicable after conducting a tow considered to be subject of cost recovery, the master of the Service vessel is to submit a report to their OIC outlining the circumstances of the tow and including a calculation of the costs incurred.

Where considered suitable, OICs should seek recovery of costs for a tow by a Service vessel.

District or local instructions

OICs of stations or establishments responsible for policing marine environments are to ensure district or local instructions are developed for responding to requests to tow ships within their area of responsibility. Such procedures are to include:

- (i) contact details for volunteer marine rescue organisations and marine salvage operators; and
- (ii) identification of safe havens;

within the relevant area of responsibility, and where applicable, current costs of special services charge out rates and operating costs of Service vessels.

13.9 Secret ballots

POLICY

The district officer or supervising commissioned officer should be notified of any police attention or police action contemplated, considered or required for the purpose of keeping law and order in connection with the holding of secret ballots in terms of the *Industrial Relations Act* prior to any action being taken.

Any subsequent police action should be directed and supervised by a commissioned officer.

Relevant legislative provisions are contained in s. 235: 'Secret ballot on strike action' and s. 285: 'Conducting a secret ballot' of the *Industrial Relations Act*.

13.10 Objectionable literature, films and computer games

The *Classification of Publications Act*, the *Classification of Films Act* and the *Classification of Computer Games and Images Act* (the '**Classification Acts**'), control the censorship, distribution, sale and possession of publications, computer games and films in Queensland. These Classification Acts contain offences relating to the production, sale and possession of objectionable material, including child pornography and abuse. However, offences relating to obscene publications and exhibitions and the production, sale and possession of child exploitation material are also contained in the Criminal Code.

13.10.1 Officers not to act as censors

POLICY

Officers should not act as a censor of community standards in respect to publications, computer games and films.

13.10.2 Classification Act offences

POLICY

Officers who receive a complaint or suspect an offence has been committed under the Classification Acts should:

- (i) contact Strategic Policy, Department of Justice and Attorney-General, which is the agency responsible for the administration and enforcement of the Classification Acts; and
- (ii) generally not investigate the offence unless the complaint involves suspected child exploitation material (e.g. a child abuse film, publication or computer game).

13.11 Prostitution

The purpose of the *Prostitution Act* is to regulate prostitution in Queensland. The *Prostitution Act* establishes the Prostitution Licensing Authority whose functions are to:

- (i) decide licence applications;
- (ii) decide approved manager applications;
- (iii) monitor the provision of prostitution through licensed brothels;
- (iv) conduct disciplinary inquiries in relation to licensees and approved managers;
- (v) discipline licensees and approved managers;
- (vi) receive complaints about prostitution;
- (vii) liaise with the Service and other agencies prescribed under a regulation with a view to helping them in carrying out their functions in relation to prostitution;
- (viii) to collect fees under the *Prostitution Act*;
- (ix) to inform relevant government departments and agencies about possible offences that are detected while carrying out its functions; and
- (x) advise the Minister about ways of promoting and coordinating programs that:
 - (a) promote sexual health care; or
 - (b) help prostitutes to leave prostitution; or
 - (c) divert minors and other vulnerable persons from prostitution, especially opportunistic prostitution; or
 - (d) raise, in prostitutes, judicial officers, police, community workers and the community, awareness of issues about prostitution;
- (xi) advise the Minister about the development of codes of practice for licensed brothels; and
- (xii) to raise, in prostitutes, judicial officers, police, community workers and the community, awareness of issues about prostitution.

Two licensing systems are created by the *Prostitution Act*. Licensing of individuals to hold a licence for a particular brothel and approved manager certificates allowing a person to manage a brothel. The intention of the legislation is to allow for 'lawful prostitution'.

Part 6, ss. 73 to 98: 'Offences' of the *Prostitution Act* create a number of offences covering the operation of a licensed brothel, prostitutes working in licensed brothels, advertising and offences of making false or misleading statements and providing false or misleading documents to the Prostitution Licensing Authority.

This Part also creates general offences relating to prostitution including public soliciting for the purposes of prostitution.

The Criminal Code provisions dealing with prostitution still exist. These Code provisions will allow an independent operator to provide prostitution at a place. Additionally the Code's provisions continue to address organised 'illegal prostitution'.

The policies contained herein will address unlawful prostitution and brothel policing as well as issues relating to prohibited brothels.

Office of the Prostitution Licensing Authority

The function of the Office of the Prostitution Licensing Authority is to help the Authority in the performance of its functions. The office may do anything necessary or convenient to be done in performing its function.

13.11.1 Information requests

PROCEDURE

Members receiving requests for information about prostitution-related matters and the inquirer is:

- (i) a licensee or certificate holder and the inquiry relates to prostitution;
- (ii) seeking information about the licensing/certificate scheme; or
- (iii) seeking an opinion in regards to the application of the *Prostitution Act*,

the member should refer the inquirer should to the Prostitution Licensing Authority.

ORDER

Members are not to provide an interpretation of the *Prostitution Act* to inquirers. Such persons should be directed to their own legal advisors, or the Prostitution Licensing Authority. Members are not to offer an opinion as to whether a proposed course of action by an inquirer is lawful or otherwise.

13.11.2 Presence at brothel

POLICY

Officers are encouraged to foster good relations with business operators including attending business premises for the purpose of liaising with business operators. Because of the nature of the prostitution industry, members should not enter brothels while on duty unless there is a specific reason to do so. This includes an authorised entry for the purpose of an inspection aimed at identifying any breaches of the *Prostitution Act*, or in response to a call for assistance which necessitates the entry. Members should not enter a brothel simply to familiarise themselves with the operators, staff or the business.

This does not preclude the operational requirements to police brothels and the vicinity of these areas in accordance with Service policy.

When attending a brothel, officers of both sexes should be present. See also s. 13.11.1: 'Entry to and search of licensed brothels and places or premises for the purposes of detecting prostitution offences' of this chapter.

ORDER

While on duty, members are not to attend brothels other than for official purposes.

13.11.3 Power of arrest

The provisions of Chapter 14, ss. 365 to 395: 'Arrest and custody powers' of the PPRA apply with respect to prostitution offences.

13.11.4 Brothel policing responsibility

Section 2.7.4: 'Drug and Serious Crime Group (DSCG)' of this Manual refers to the Prostitution Enforcement Task Force (PETF) and regional responsibilities.

13.11.5 Prostitution related offences

When officers detect an offence or suspect an offence of unlawful prostitution has been committed, they should investigate the complaint as part of their normal policing duties.

Any member receiving information concerning offences of prostitution is to cause the OIC, PETF, Crime and Intelligence Command, to be notified through the regional crime coordinator.

When members become aware of information relating to unlawful prostitution, they are to record an intelligence submission. Intelligence officers assigned an intelligence submission are to enter such information on the Australian Criminal Intelligence Database (ACID).

Regional crime coordinators are responsible for ensuring that all referred matters relating to prostitution are attended to in accordance with the policies contained herein. Additionally, regional crime coordinators are required to liaise with and assist the OIC, PETF to enable the undertaking of appropriate responses to prostitution-related matters.

13.11.6 Target groups regarding prostitution offences

POLICY

An act of prostitution involving an independent prostitute or within a licensed brothel is outside the framework of the criminal law. In policing unlawful prostitution priority is to be given to three specific groups of people, namely those persons:

- (i) who organise and profit from the unlawful prostitution of others;
- (ii) involved in organised unlawful prostitution activity; and
- (iii) who seek to coerce, procure or involve children and intellectually impaired persons into unlawful prostitution.

13.11.7 An independent prostitute

POLICY

Officers who are making inquiries into allegations of unlawful prostitution and suspect that a person against whom allegations are made is an independent prostitute, may make discreet inquiries about the allegations of prostitution and if practicable, interview the person concerned to:

- (i) establish the bona fides of the person, and whether any other person has an interest in the prostitution;
- (ii) establish if that person has any knowledge of prostitution involving two or more prostitutes;
- (iii) determine if any young persons or intellectually impaired persons are involved in prostitution in subparagraph (ii);
- (iv) determine if the person is advertising prostitution; or
- (v) establish if the prostitution activity is causing a nuisance.

No action should be taken against an independent prostitute for prostitution when undertaken within the confines of the legislation. However, a prostitute may commit prostitution-related offences or other offences in which case the appropriate action should be taken.

13.11.8 Security providers for prostitution

POLICY

A person or organisation providing security for prostitutes does not necessarily fall within the provisions of ss. 229H: 'Knowingly participating in provisions of prostitution', 229HA: 'When section 229H does not apply to a person', 229HB: 'Carrying on business of providing unlawful prostitution', or 229HC: 'Persons engaging in or obtaining prostitution through unlawful prostitution business' of the Criminal Code. Prostitutes are entitled to have a security system for their personal protection and the protection of their property to the same extent as other members of the community. The security must be related to the protection of the prostitute as an individual and not for the purposes of protecting the business of prostitution.

The security system may provide for a prearranged signal to summon help, or advising of the location or the activity being undertaken pursuant to s. 229HA(5) of the Criminal Code, or the engaging of a security provider to provide security (pursuant to s. 229HA(4)(b)(ii) of the Criminal Code), or the engaging of a security provider to provide services as a driver (pursuant to s. 229HA(4) of the Criminal Code) for premises (in the case of a licensed brothel in accordance with the brothel licence) or the individual (when the prostitution is not unlawful prostitution).

However, the security provider, other than pursuant to ss. 229H, 229HA, 229HB and 229HC of the Criminal Code, must not be involved in the provision of prostitution services or receive benefits in addition to those payable by other members of the community for a similar service.

Security systems which are designed to specifically obstruct, hinder or prevent officers from carrying out their responsibilities under the legislation may result in a prosecution being initiated.

Security providers, other than at a licensed brothel in accordance with the brothel licence or pursuant to s. 229HA(4)-(5) of the Criminal Code for prostitution which is not unlawful prostitution, who are engaged in activities additional to security and providing services as a driver in respect of the prostitute may be liable to prosecution (e.g. a security provider who in addition to and not as part of the provision of security, answers telephones for a prostitute or takes bookings).

13.11.9 Specialist investigation (Prostitution)

See ss. 2.7: 'Crime and Intelligence Command' and 2.9: 'Covert operations' of this Manual.

The provisions of s. 2.9: 'Covert operations' of this Manual dealing with controlled operations and controlled activities apply to the investigation of prostitution-related offences.

Officers who receive information in relation to places used for the purposes of unlawful prostitution are to record an intelligence submission.

Information to be included in an intelligence submission should include:

- (i) whether the operator is operating a brothel, an escort agency or both;
- (ii) the name and location of the brothel, etc.;
- (iii) description of the building;
- (iv) whether clients pay by credit card/cash;
- (v) any business name on credit card vouchers;
- (vi) phone numbers of brothels, etc.;
- (vii) hours of operation;
- (viii) number and working names of prostitutes;
- (ix) advertisements (where/how the brothel is advertised);
- (x) vehicles used by the brothel, etc.;
- (xi) persons involved and descriptions; and
- (xii) any other general comments.

Intelligence officers assigned an intelligence submission are to enter such information on the Australian Criminal Intelligence Database (ACID).

Officers are not to obtain evidence of prostitution by personally disrobing or by engaging in physical contact with a suspected prostitute, unless specifically authorised by a commissioned officer of or above the rank of superintendent.

Investigative responsibilities of officers include:

- (i) obtaining evidence of the suspect's correct place of abode. This is to enable those premises to be searched at a later stage for the purpose of obtaining further evidence;
- (ii) identifying the suspect's solicitor and accountant, if possible. This is to assist with searches of the suspect's premises (in relation to proceeds of crime) at a later stage of the investigation;
- (iii) checking the movements of the suspect having them put under surveillance (where practicable);
- (iv) identifying organised drug connections;
- (v) identifying the main offenders (the person running the business may not always be the owner);
- (vi) ascertaining:
 - (a) who owns the premises;
 - (b) who pays any rent;
 - (c) what name the company is in;
 - (d) in whose name the business is registered;
 - (e) who pays any rates;
 - (f) who pays the telephone bill; and
 - (g) in whose name each of the utilities are listed and who had them connected;
- (vii) checking newspapers, yellow pages and other sources for advertisement of prostitution. Having all telephone numbers identified and ascertaining to what premises they relate;
- (viii) tracing the banking account details and transactions of the suspects in an attempt to link the receipt and flow of monies;
- (ix) investigating the laundering of money. Money laundering can be done in a number of ways buying property, vehicles, boats, yachts, animals, investing in another business;
- (x) having photographs taken of clients entering and leaving the premises to secure evidence of their involvement with those premises;

(xi) evidence should be obtained from clients who attend those premises for sexual services for the payment of money by tracing the client's credit card and obtaining a statement in relation to the services received at those premises.

Officers should ask the following questions:

- (a) introduce yourself as being a member of the Queensland Police Service. Outline the nature of the inquiry;
 - (b) obtain the client's name, address, date and place of birth, occupation, etc.;
 - (c) ask the client to outline the events that took place in the suspect premises;
 - (d) it is assumed that clients pay money for 'services' to the receptionist upon entry. The full amount may be paid to the receptionist or may be paid once in a room with a suspect. This should be clarified with the client. If the receptionist accepts all monies upon entry, officers should ascertain from the client what services the receptionist outlines (if any);
 - (e) ask the client what name was given by the client at the door and whether the receptionist wrote anything down in a book at the front counter;
 - (f) ask what the receptionist did with the money;
 - (g) ask whether the client knows the receptionist's name. The client should be asked to describe what the receptionist was wearing;
 - (h) ask how many people were there, the name of the person seen and about peculiarities of the person seen;
 - (i) ask whether the client was aware of the names of any other persons present;
 - (j) ask whether the client would be able to identify any of the persons seen (if a photo kit is available show same);
 - (k) ask the client to describe the room used for sex;
 - (l) ask the client to detail all conversations had;
 - (m) pay particular attention to slang terms used by the person chosen and any reference to 'house rules';
 - (n) detail any services the client chose;
 - (o) detail how much the client paid and request the client provide any copies of vouchers received as a result of services rendered at the premises;
 - (p) the client should be asked about the act;
 - (q) male clients should be asked whether they ejaculated;
 - (r) ask whether the client had been there before? If so, how many times? When was the first time the client visited the premises?;
 - (s) how did the client learn of the premises? e.g. advertising; and
 - (t) ask what services were obtained on those other occasions;
- (xii) ensuring that when a search warrant is being executed the aim of the search is to gather evidence related to the operation of the prostitution business. The documents listed below should be seized:
- (a) evidence showing the premises are advertised for massage;
 - (b) client work sheets;
 - (c) balance sheets and books of accounting;
 - (d) certificates of business registration;
 - (e) business cards;
 - (f) banking, credit card documents and credit card printing machines;
 - (g) accounts and receipts relating to payment of business accounts;
 - (h) rental agreements;
 - (i) telephones;
 - (j) pay vouchers; and
 - (k) tax forms, etc.;
- (xiii) ensure allegations made by an informant are not the sole grounds for a search warrant as evidence of organised prostitution is required;

(xiv) money located should be photographed or videoed and counted in front of the suspect; and

(xv) consideration should be given as to whether a prosecution should be commenced against such clients as they may have committed an offence.

13.11.10 Offences relating to participating in, carrying on the business of, engaging in or obtaining prostitution through unlawful prostitution

POLICY

Unlawful prostitution means prostitution by 2 or more prostitutes, other than at a licensed brothel in accordance with a brothel licence for the brothel. See s. 229C: 'Definitions for ch 22A' of the Criminal Code.

To carry on a business a person must at least provide finance for the business and either take part in the management of the business or control the business. See s. 229F: 'Meaning of carry on a business' of the Criminal Code.

The legislation in relation to unlawful prostitution is designed to target organised unlawful prostitution and persons who benefit from the unlawful prostitution of others. The Service will not automatically commence a prosecution against trade and professional persons who are merely providing a service which would be normally available to other members of the community unless the provision of such service involves facilitating, promoting or organising unlawful prostitution.

The offences relating to unlawful prostitution relevant to this section are:

- (i) s. 229H: 'Knowingly participating in provision of prostitution';
- (ii) s. 229HB: 'Carrying on business of providing unlawful prostitution'; and
- (iii) s. 229HC: 'Persons engaging in or obtaining prostitution through unlawful prostitution business';

of the Criminal Code.

Section 229HA: 'When section 229H does not apply to a person' of the Criminal Code sets out those circumstances when an offence under s. 229H does not apply.

The exceptions under s. 229HA(2), (3), (4) and (5) of the Criminal Code are:

- (i) where the prostitution happens at a licensed brothel in accordance with the brothel licence for the brothel, and the prostitute is an adult and is not a person with an impairment of the mind;
- (ii) the activity constituting the prostitution is an activity mentioned in s. 229E(1)(d): 'Meaning of prostitution' of the Criminal Code, and the person engaging in the activity is providing adult entertainment under an adult entertainment permit and is an adult and is not a person with an impairment of the mind, and the activity is authorised under the permit; and
- (iii) the provision of the prostitution does not take place at a licensed brothel, and the prostitution is not unlawful prostitution and the suspected participant is either:
 - (a) the holder of a current licence issued under the *Security Providers Act* for carrying out the functions of a bodyguard and the participant participates in the provision of the prostitution no more than to the extent necessary for providing services as a bodyguard for only one person; or
 - (b) the holder of a current licence issued under the *Security Providers Act* for carrying out the functions of a crowd controller and the participant participates in the provision of the prostitution no more than to the extent necessary for providing services as a driver for only one person and no one else;

(see also s. 13.11.8: 'Security providers for prostitution'); and

- (iv) the provision of the prostitution does not take place at a licensed brothel, and the prostitution is not unlawful prostitution and the suspected participant:
 - (a) directly receives a message from the other person about the other person's location, or the activity being undertaken by the other person, in relation to the provision of prostitution by the other person; and
 - (b) participates in the provision of the prostitution no more than the extent necessary for ensuring the safety of the other person; and
 - (c) participates in the provision of the prostitution by the other person and no one else; and
 - (d) does not engage in prostitution.

Significant issues to be considered in determining whether a prosecution should be commenced for offences of unlawful prostitution include:

- (i) the degree of involvement of the person;
- (ii) whether any retainer, contract or special benefits exist;
- (iii) whether the actions of a person can be interpreted as promoting or initiating an arrangement leading to unlawful prostitution;

(iv) whether the remuneration for the service is provided at a higher rate in comparison to fees charged to other members of the community; or

(v) in the case of trade or professional persons executing their trade or professional function, whether the provision of service is obvious or extreme in supporting unlawful prostitution.

Should one or more of the above criteria exist, consideration should be given to the commencement of action against any person, business, firm or company providing the service.

The following examples may assist in the interpretation of this policy:

(i) a decision not to prosecute would be justified on the grounds that the service provided by a trades or professional person is similar to that provided to any other individual member of the community, and the actions of the trade/professional person do not imply obvious support which is knowingly intended to facilitate, promote or assist unlawful prostitution. For example a plumber who repairs a spa bath or a painter who paints premises in the line of normal employment would not, unless other factors exist, be prosecuted;

(ii) financial institutions supplying services, such as credit card instruments will be excluded from prosecution action unless the institution knowingly provided or continued to provide financial assistance for use in connection with prostitution; and

(iii) it is not intended to commence a prosecution against a driver, operator or hirer of a vehicle who provides transport for prostitutes or clients of prostitutes unless it can be proven that the driver/operator/hirer of a vehicle undertakes, at the time of providing the service, to promote or facilitate arrangements leading to unlawful prostitution, or the service was provided for additional benefit under a retainer or contractual arrangement. Carrying out of a hirer's direction to provide transport from one point to another is unlikely to be sufficient for a prosecution even if the driver/operator/hirer knew the destination to be a place where unlawful prostitution took place.

13.11.11 Persons found in places reasonably suspected of being used for unlawful prostitution

POLICY

The meaning of the term 'place' used and defined in s. 229C: 'Definitions for ch 22A' of the Criminal Code is not intended to be used to justify prosecution action against persons in separate premises not related to the place where unlawful prostitution is occurring. For example where an 'unlawful brothel' is operating out of a unit within a block of units. Other residents within that unit block are not liable for prosecution unless they are also involved in the organised prostitution. Enforcement action is only to be commenced in respect of persons directly or indirectly involved in unlawful prostitution.

Persons found in, or leaving after having been in a 'place', suspected on reasonable grounds of being used for the purposes of unlawful prostitution by two or more prostitutes commit a crime, unless those persons have a reasonable excuse for their presence. The onus is on a person so found to provide a reasonable excuse for being in or leaving after having been in the 'place'. Once a reasonable excuse has been provided, it is then the responsibility of the investigating officer to negate that excuse prior to commencing a prosecution.

PROCEDURE

When an officer suspects on reasonable grounds that a 'place' is being used for the purposes of unlawful prostitution, a search warrant should be obtained under the provisions of s. 150: 'Search warrant application' of the PPRA to gain entry to the premises.

See s. 13.11.14: 'Prohibited brothels and persons having an interest in premises used for the purposes of prostitution' of this chapter for procedures to declare a premise a prohibited brothel. It is an offence for a person to be found in, entering or leaving a prohibited brothel (see s. 69: 'Offence of being in or entering or leaving prohibited brothel' of the *Prostitution Act*).

13.11.12 Permitting young person, etc. to be at place used for prostitution

POLICY

Where a person who is not an adult or who has an impairment of the mind, is found at a place used for the purposes of prostitution by two or more prostitutes (unlawful or otherwise), officers should initiate a prosecution against offenders who knowingly cause or permit to be at that place any such child or person with an impairment of the mind.

Where two or more prostitutes operate a place for the purposes of prostitution and children or persons with an impairment of the mind are located at that place, it is immaterial that prostitution is not occurring at that time.

Officers should not initiate a prosecution against a person for causing or permitting a person who is not an adult or who is a person with an impairment of the mind to be at a place used for the purposes of prostitution by two or more prostitutes under circumstances where no connection exists between the person and the prostitution. Some examples include a child or person with an impairment of the mind who:

(i) provides a service to the premises which is not connected with prostitution; or

(ii) is at the place to retrieve a lost item or carry out an action totally unrelated to prostitution where the child or person with an impairment of the mind enters the place for a legitimate reason.

See s. 13.11.17: 'Requiring a person to state name, address, age and evidence of their correctness' of this chapter regarding name, address and age provisions, and removal of person who is not believed to be an adult.

13.11.13 Certificate of discharge for particular offences

PROCEDURE

Section 229J: 'Certificate of discharge for particular offences' of the Criminal Code allows for persons charged with an unlawful prostitution offence or unlawful presence offence under s. 229I: 'Persons found in places reasonably suspected of being used for prostitution etc.' of the Criminal Code to be discharged. A person once discharged cannot afterwards be convicted or further prosecuted for the unlawful prostitution offence or unlawful presence offence if they make a full and true disclosure of all material particulars within their knowledge relevant to the application made by them to a court at any time before being found guilty.

When officers commence a prosecution against a person under s. 229I of the Criminal Code, and after the prosecution has been commenced that person is prepared to provide additional information in respect of prostitution activities, officers conducting the investigation should, where possible obtain a statement or further statement from the defendant and attempt to verify the circumstances of the additional information. Investigating officers should then advise the prosecutor of that fact and all of the circumstances surrounding the initial prosecution.

ORDER

When the defendant provides evidence on oath, prosecutors are to:

- (i) liaise with the officer in charge of the investigation so as to obtain proper and relevant instructions; and
- (ii) cross examine the defendant with a view to obtaining direct evidence of the commission of any other offences in accordance with instructions received.

Where a certificate of discharge has been issued, the prosecutor is to record that fact on the Court Brief (QP9) and is to cause the investigating officer to be notified as soon as practicable of the circumstances of the issue of the certificate.

Investigating officers are to then continue investigations in the normal manner, including obtaining a transcript of the evidence from the court, where such transcript is required.

POLICY

The certificate of discharge refers to an unlawful prostitution offence or unlawful presence offence against the person charged in whose favour the certificate has been given. Evidence which discloses other offences should be investigated by the arresting officer with a view to commencing further prosecutions.

Where a person has committed an offence, other than an unlawful prostitution offence or unlawful presence offence and that person is willing to provide additional information or indemnified evidence, officers may make application in the normal manner to the Director of Public Prosecutions (State) as they would for any other criminal offence. (See s. 3.9.14: 'Indemnities against prosecution' of this Manual.)

Where the defendant provides evidence under s. 229J(5) of the Criminal Code to the satisfaction of the prosecutor, the prosecutor may, if it is believed that the defendant has truthfully disclosed all material particulars, support the issue of the certificate of discharge.

Prosecutors should be aware that defendants may make an application for an order prohibiting the publication of identifying matter in relation to them. That prohibition on publication does not relate to information provided in relation to the commission by any other person of an offence against the Criminal Code in relation to the premises.

Where they believe that a defendant is going to disclose information which may result in further police action, prosecutors are to endeavour to have the defendant give evidence in chambers so that publication of the information in the media will not potentially affect a police investigation.

13.11.14 Prohibited brothels and persons having an interest in premises used for the purposes of prostitution

The Criminal Code and the *Prostitution Act* provide similar provisions in dealing with unlawful brothels. Section 229K: 'Having an interest in premises used for prostitution etc.' of the Code is aimed specifically at interested persons (owners, lessees, occupiers or users of premises). This section allows a police officer to serve a written warning to an interested person in relation to premises that is not a licensed brothel and is being used for the purpose of prostitution by two or more prostitutes.

Under Part 5, ss. 65 to 72: 'Prohibited brothels' of the *Prostitution Act* a court, satisfied on the balance on probabilities, may declare premises to be a prohibited brothel. Under this part, a person found in or entering or leaving a prohibited brothel other than for a lawful purpose commits an offence as does the owner or occupier of the premises who is found in or entering or leaving the premises without a court order.

Criminal Code

Officers who complete such a written warning must actually know that the premises are being used for the purposes of prostitution by two or more prostitutes. Officers are not to prepare a written warning merely on suspicion that prostitution

is occurring. See Appendix 13.2: 'Written warning to interested person (s. 229K of the Criminal Code)' of this chapter for an example of the warning.

Criteria for determining whether prostitution is occurring at certain premises can be:

- (i) the persons on those premises have been convicted of prostitution offences;
- (ii) statements have been taken from prostitutes or clients in relation to the prostitution activity; or
- (iii) evidence has been given on oath to a court concerning the prostitution activity at the premises.

A written warning should be completed and signed in duplicate for each of the interested persons upon whom it is to be served. One copy is for service on each of the interested persons (e.g. owner and the real estate agent), the other copy for endorsement as to service.

Service of a notice on an interested person may be affected either:

- (i) personally;
- (ii) by leaving a copy of the warning with a person at the registered office of the company (where a company is the interested person). In addition, the warning should be served on each director or principal of the company; or
- (iii) by forwarding a copy of the written warning by Registered Post A.R. (Acknowledge and Receipt) to the interested person.

(Note: Registered Post A.R. will result in the warning being delivered directly to the person or a person in authority in a company to whom the envelope is addressed. The A.R. card is returned to the sender after service. If service is not affected within one month the posted item is returned to the sender. Members can be satisfied, for the purposes of future prosecution, that the notice has been served.)

The reason a copy of the warning should be served on each of the principals or directors of a company, is that several companies involved in prostitution may have the same principals or directors. This will assist in identifying networks of prostitution organised by the same people. The identity and address of the interested person may be obtained by:

- (i) interviewing the prostitute or person connected with the prostitution;
- (ii) conducting a search of local council records;
- (iii) conducting a search of the Titles Office; or
- (iv) application of the *Criminal Proceeds Confiscation Act* where applicable.

ORDER

The rear of the second copy is to be endorsed by the officer serving the warning with the:

- (i) time, date and place;
- (ii) name of the person upon whom it was served;
 - (a) whether it was served personally or otherwise; and
 - (b) identifying particulars of the Registered Post A.R. (Acknowledge and Receipt);
- (iii) signature of the officer who served the warning; and
- (iv) name, rank, registered number and station of the officer who served the warning.

When a warning has been served on an interested person, the endorsed copy of the warning is to be forwarded by the officer serving the warning to the relevant intelligence officer where the prostitution premises are located within seven days of the service of the warning. The relevant intelligence officer is to retain the copy of that warning for a minimum period of two years. The relevant intelligence officer is to cause the ACID system to be updated with information concerning the warning.

Where a warning is given to a registered company, the relevant intelligence officer is to ensure that the identifying particulars of directors or principals of the company are recorded on the ACID system.

Prostitution Act

Officers intending to make applications under Part 5, ss. 65 to 72: 'Prohibited brothels' of the *Prostitution Act* should, by way of written report, obtain approval from the regional crime coordinator to commence an application under s. 65: 'Application to Magistrates Court' of the *Prostitution Act*. The regional crime coordinator should liaise with the OIC, Prostitution Enforcement Task Force (PETF) and consider the application and if appropriate, approve the application.

Once receiving approval, officers are to:

- (i) advise the OIC, PETF by e-mail or facsimile transmission, who will notify the Prostitution Licensing Authority (PLA);
- (ii) prepare officer affidavits outlining the officer's beliefs about s. 66(1): 'Declaration that premises are a prohibited brothel' of the *Prostitution Act*;

- (iii) prepare witness affidavits;
- (iv) complete a Form 5: 'Originating Application' (Uniform Civil Procedure Rules);
- (v) obtain a certificate from the executive director of the PLA stating that the premises was not a licensed brothel;
- (vi) lodge the form and affidavits ('**the application**') with the appropriate Clerk of the Magistrates Court and obtain a hearing date;
- (vii) ensure that at least seventy-two hours before the hearing date a copy of the application, together with a notice of an application for an order declaring premises a prohibited brothel, is served on the owner and the occupier of the premises subject of the application (see ss. 66(3) and 72(1): 'Service of notices in relation to prohibited brothels' of the *Prostitution Act*);
- (viii) endorse a copy of the served notice of an application as to service of the notice on the owner and the occupier;
- (ix) submit the endorsed forms together with affidavits and certificate(s) to the relevant Police Prosecutions Corps;
- (x) ensure the required witnesses attend court; and
- (xi) personally attend the court.

Forms and affidavits held by the police prosecutor are to be forwarded upon completion of the hearing to the OIC, PETF for filing.

Where a court has issued a declaration that the premises is a prohibited brothel, the applicant officer as soon as practicable should:

- (i) cause to be published in a newspaper sold and generally circulating in the locality in which the premises was situated, a notice of the making of the declaration. This is to be published for a minimum of two consecutive days. A copy of the advertisement is to be attached to the correspondence file;
- (ii) give a notice of the making of the declaration to:
 - (a) the occupier of the premises, and if the occupier is not the owner of the premises, the owner; and
 - (b) if the premises are subject to a registered mortgage, the registered mortgagee;
- (iii) cause to be posted at or near the entrance to the premises, a copy of the declaration so that it is visible and legible to any person entering the premises. Care should be taken to minimise damage to the premises caused by the posting; and
- (iv) forward a copy of the notice and newspaper advertisement to the OIC, PETF.

Generally, the Service will not be making applications for rescission of a declaration for a prohibited brothel.

Any officer receiving a notice to rescind a declaration of a prohibited brothel, where a police officer is not the applicant, is to forward the notice to the OIC of the district. The OIC of the district is to forward a copy to the regional crime coordinator for forwarding to the OIC, PETF.

The OIC, PETF is to consider the application for rescission and institute appropriate action where required in liaison with the PLA.

13.11.15 Public soliciting for purposes of prostitution

Section 73: 'Public soliciting for purposes of prostitution' of the *Prostitution Act* creates the offence of publicly soliciting for the purposes of prostitution.

POLICY

Service objectives in relation to the offence of soliciting for the purposes of prostitution are intended to reduce the active promotion of prostitution, limit the potential for expansion of organised unlawful prostitution activities and prevent unacceptable publicity of prostitution.

ORDER

No officer is to engage in soliciting for the purposes of s. 73 of the *Prostitution Act* without the express written consent of the regional crime coordinator, and in compliance with the provisions of s. 2.9: 'Controlled activities' of this Manual.

Move-on powers

Where an officer reasonably suspects a person is soliciting for prostitution in any public place to which the public has access, whether on payment of a fee or otherwise, that officer may give any direction that is reasonable in the circumstances to that person.

A public place does not include any area in a licensed brothel that cannot be viewed from outside the brothel.

See s. 13.23: 'Move-on power' of this chapter.

13.11.16 Advertising prostitution services

Part 6, Division 4, ss. 92 to 96C: 'Advertising offences' of the *Prostitution Act* creates a number of offences relating to advertising and publishing statements, including internet websites and advertising, dealing with prostitution.

Prosecution action should not be commenced against the following persons, without first obtaining advice from the relevant regional crime coordinator or in the case of Crime and Intelligence Command (CIC), the Superintendent, CIC:

- (i) the publisher, proprietor or owner of the printing or publishing enterprise when the publishing and printing of an advertisement for prostitution occurred outside of Queensland and is not associated or connected with a person, business, firm or company in Queensland; or
- (ii) a distributor or newsagent who sells or distributes in Queensland a newspaper or periodical which is a recognised publication in another State and is not used solely for the purposes of advertising prostitution.

A prosecution can however be commenced against a prostitute or any person located in Queensland who has an advertisement published on their behalf, regardless of whether the advertisement is published in Queensland or elsewhere. Action could also be taken against the person or company who publishes in Queensland the availability of prostitution services in other States.

13.11.17 Requiring a person to state name, address, age and evidence of their correctness

Section 40 'Person may be required to state name and address' of the PPRA provides a general power for officers to require a person to state the person's correct name and address in prescribed circumstances (see s. 41: 'Prescribed circumstances for requiring name and address' of the PPRA for prescribed circumstances, s. 22: 'Prescribed Act – Act, s 41(g)', Schedule 3: 'Prescribed Acts – Act, section 41(g)' of the Police Powers and Responsibilities Regulation).

Section 40(2) of the PPRA provides that an officer may require the person to give evidence of the correctness of the stated name and address if in the circumstances it would be reasonable to expect the person to be in possession of such evidence. It is an offence to fail to comply with a requirement made under s. 40 of the PPRA without a reasonable excuse.

However, it may sometimes be necessary for an officer to discover a person's age when making investigations into suspected prostitution offences. Section 42: 'Power for age-related offences and for particular motor vehicle related purposes' of the PPRA provides power to require a person to state the person's correct date of birth and to give evidence of the correctness thereof, if in the circumstances, it would be reasonable to expect the person to be in possession of such evidence or to otherwise be able to give the evidence, under certain conditions associated with a person's entitlement to be at a place or engage in an activity.

Section 42 of the PPRA also enables a police officer, in circumstances where that officer asks a person to give evidence of the person's date of birth and is not satisfied that the person is old enough to be at the place or to engage in the activity, to direct the person to immediately leave the place, or the part of the place where the person's age is relevant, and not re-enter it, or not to engage in the activity.

A failure, without reasonable excuse, to comply with a requirement or failing to give evidence of the correctness or stating of a false age or the giving of false evidence of the correctness of a person's age is an offence (see s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA).

Whenever the provisions of ss. 40 and 42 of the PPRA are used, a police officer is to give the person a reasonable opportunity to comply with the requirement and must if practicable warn the person.

Pursuant to s. 85: 'Person to state age' of the *Prostitution Act*, in circumstances where a police officer reasonably believes that a person in a licensed brothel may be a minor, that police officer may require the person to give particulars of the person's age. This section also allows a police officer to require the person to give satisfactory evidence of the particulars where the police officer considers that the particulars given by the person may be false. Under this section, a police officer must warn the person that it is an offence to fail without reasonable excuse to comply with the requirements or to give false particulars or evidence.

Under s. 86: 'Licensee and approved manager to state name and address' of the *Prostitution Act* a police officer may require a licensee or approved manager at a licensed brothel to give particulars of the licensee's or manager's name and address. An offence is created under this section for a licensee or approved manager who without excuse fails to comply with a requirement or gives false particulars.

POLICY

When dealing with licensees or approved managers at a licensed brothel, or persons who, a police officer reasonably believes, may be minors in a licensed brothel, where required, the provisions of ss. 85 and 86 of the *Prostitution Act* are to be used.

In relation to all other persons or when dealing with children or licensees or managers not at/in a licensed brothel, the provisions of the PPRA should be used.

Additionally, the provisions of s. 42(4) of the PPRA should be used where appropriate in relation to a child in a licensed brothel. These provisions allow a police officer to direct the child to immediately leave the place or the part of a place where the child's age is relevant and not re-enter it.

ORDER

Officers, whether in uniform or not are to give their rank, surname and station or establishment to a person required to provide particulars of the person's name, address or age (see s. 637: 'Supplying police officer's details' of the PPRA).

Officers who are not in uniform who require a person to provide particulars of the person's name, address or age are to:

- (i) tell the person of whom the requirement is made that the officer is a police officer; and
- (ii) produce their identity card for inspection by the person (see s. 637 of the PPRA).

13.11.18 Entry to and search of licensed brothels and places or premises for the purposes of detecting prostitution offences

Generally, the Prostitution Licensing Authority (PLA) is responsible to ensure that 'lawful prostitution' in brothels is provided in accordance with the legislation. Under s. 59: 'Police power to enter licensed brothel' of the *Prostitution Act* an officer of at least the rank of inspector, or an officer authorised in writing (see Form QP 0472: 'Application for authority to enter licensed brothel' available on QPS Forms Select) for the particular entry by an officer of at least the rank of inspector, may at any time when the premises used is a licensed brothel is open for business, enter and inspect the premises and with the written authorisation of the PLA undertake further authorities, as specified in s. 60: 'Powers after entry' of the *Prostitution Act*. An authorised officer, if asked, is to produce the authority given by the police officer of at least the rank of inspector to the brothel's licensee or approved manager.

Section 61: 'Authority to be given particulars after entry' of the *Prostitution Act* provides that as soon as practicable after a police officer enters a licensed brothel under the *Prostitution Act*, the police officer, or the police officer who authorised the entry, must give the PLA any particulars in relation to the entry. The particulars required to be given to the Authority are contained in s. 12: 'Particulars to be given to Authority after entry – Act, s 61' of the Prostitution Regulation. Form QP 0469: 'Particulars after entry to licensed brothel' available on QPS Forms Select is to be used for this purpose.

The PPRA also contains several provisions which will allow police officers to enter brothels under certain circumstances or to investigate offences (for example, see ss. 19: 'General power to enter to make inquiries, investigations or serve documents', 21: 'General power to enter to arrest or detain someone or enforce warrant', 50: 'Dealing with breach of the peace', 52: 'Prevention of offences – general', and 609: 'Entry of place to prevent offence, injury or domestic violence' of that Act). Whenever entry to a brothel is undertaken under the PPRA, the commissioned officer having line supervision of the officer making the entry is to be notified by the officer making the entry prior to the entry taking place, or where the circumstances surrounding the entry make it impractical, as soon as possible following the entry. The officer making the entry is to ensure that the OIC, Prostitution Enforcement Task Force (PETF) is advised of the entry.

Whenever the PLA or PETF is required to be notified a Form QP 0469: 'Particulars after entry to licensed brothel' is to be completed and forwarded by facsimile transmission to the OIC, PETF, Crime and Intelligence Command as soon as practicable following the entry.

The OIC, PETF upon receipt of forms is to ensure that forms relating to entries under:

- (i) s. 59 of the *Prostitution Act* are forwarded to the PLA; and
- (ii) the PPRA are forwarded to the PLA where considered appropriate.

Officers who, as part of discharging a function of the Service, enter a licensed brothel or other place used or suspected of being used for purposes of prostitution, are to record in their official police notebooks or diaries and, where appropriate in patrol activity logs, details of such entries.

When officers intend to enter and search or inspect premises for the purposes of establishing whether prostitution offences have occurred, in addition to the provisions of the *Prostitution Act* (see s. 13.11.19: 'Compliance inspections' of this chapter), they may:

- (i) in respect to unlicensed brothels or independent prostitutes, enter, inspect and/or search on invitation or by consent of the occupants;
- (ii) enter and search on the authority of a search warrant under the provisions of s. 150: 'Search warrant application' of the PPRA; or
- (iii) enter the place and exercise search warrant powers under the provisions of Chapter 7, Part 2, ss. 159 to 163: 'Search of place to prevent loss of evidence' of the PPRA and ss. 4: 'Post-search approval application' and 5: 'Appeal – Act, s 163' of the Responsibilities Code.

13.11.19 Compliance inspections

Compliance inspections are visits by police to a licensed brothel for the purpose of ensuring the brothel is being operated in accordance with the requirements of the *Prostitution Act*, and for identifying whether other offences are being committed on the premises, either by the licensee, manager, staff or clients.

Generally, compliance inspections are undertaken by the PETF, Crime and Intelligence Command. However, regions may be requested to assist PETF with these types of inspections. Requests for assistance involving compliance

inspections should be made by the OIC, PETF to the relevant regional crime coordinator. Wherever practicable, PETF procedures, made available by the OIC of PETF, are to be followed.

The relevant authorities pursuant to ss. 59: 'Police power to enter licensed brothel' and 60: 'Powers after entry' of the *Prostitution Act* are to be made available to the officer making the entry by the OIC, PETF.

Where an authority is given by a regional commissioned officer, a copy is to be forwarded to the OIC, PETF.

Authorities pursuant to ss. 59 and 60 of the *Prostitution Act* irrespective of the issuer are to be filed at the police establishment where the officer making the entry to the licensed brothel is attached.

13.11.20 Disciplinary action against licensee

Officers seeking disciplinary action to be taken against a licensee or approved manager of a brothel are to forward a report to the OIC, PETF, addressing the areas of concern.

Officers becoming aware that a licensee, a person who has an interest in the licensee's brothel, or approved manager, has been charged with an offence in Queensland or elsewhere, is to advise the OIC, PETF.

Officers seeking to vary or revoke a condition or restriction of a licence or certificate are to forward a report, outlining the reasons, to the OIC of the region, who is to forward the report to the Prostitution Licensing Authority (PLA) with a copy to OIC, PETF.

The OIC, PETF is to consider the contents of any reports received and in appropriate cases apply to the PLA for a disciplinary inquiry.

13.11.21 Certificate for evidentiary purposes

Where officers require certificates pursuant to s. 132: 'Evidentiary provision' of the *Prostitution Act*, they are to contact the OIC, PETF who is to obtain the appropriate certificates in accordance with the request.

13.11.22 Medical practitioners/health service providers for prostitutes

ORDER

Officers conducting investigations into prostitution are not to initiate a prosecution against a medical practitioner or a health services provider merely because the medical practitioner or health services provider either medically examined, treated, or provided advice on health related issues to a prostitute. It is immaterial that the medical practitioner or health services provider has knowledge that the patient is a prostitute and it is immaterial that the prostitute marketed the frequency of the medical examination to attract clients. Such examination or treatment by the medical practitioner or health service provider is not to be regarded by officers as assisting in prostitution on the part of the medical practitioner or health service provider for the purposes of prosecution of an offence.

PROCEDURE

Other than in the case of licensed brothels, where it can be established that the medical practitioner or health services provider is receiving benefits in addition to normal remuneration for medical services paid by a member of the community for a medical examination or treatment, such extra benefit may be sufficient to initiate a prosecution under ss. 229H: 'Knowingly participating in provision of prostitution', 229HB: 'Carrying on business of providing unlawful prostitution' or 229HC: 'Persons engaging in or obtaining prostitution through unlawful prostitution business' of the Criminal Code.

In accordance with s. 229O: 'Non-compellability of health service providers' of the Criminal Code and s. 135: 'Non-compellability of health service providers' of the *Prostitution Act*, a health services provider may, on the ground that it would disclose information gained in providing a health service, refuse to provide any document or information or answer any question in relation to an investigation of, or prosecution for, an offence against Chapter 22A: 'Prostitution' of the Criminal Code or the *Prostitution Act*.

A health professional as defined under the *Prostitution Act* may give to a police officer information about a prostitute and the prostitutes disability if the health professional reasonably believes that a prostitute at a licensed brothel is a person with an intellectual impairment, refer s. 134A: 'Protection of health professionals from liability' of the *Prostitution Act*.

POLICY

Officers should not initiate a prosecution against persons or organisations such as:

- (i) chemists who provide facilities and equipment for safe sex practices (e.g. condoms or lubricants);
- (ii) members from the Self Help for Queensland Workers in the Sex Industry (SQWISI) acting in the capacity of a health services provider; or
- (iii) other health services providers (see s. 135 of the *Prostitution Act*).

13.11.23 Applicant's identifying particulars

As part of the licensing process, applicants are required to provide identifying particulars. Upon lodging of an application, the Prostitution Licensing Authority (PLA) will refer the application to the Prostitution Enforcement Task Force (PETF), who will then make the necessary arrangements to have appropriate applicant's identifying particulars taken.

Where identifying particulars are required to be taken, the OIC, PETF is to advise the applicant to attend a stated police station at a stated time. The OIC of the stated police station is to also be notified of the applicant's attendance and of the identifying particulars required to be taken. The OIC, PETF is to ensure that facilities for taking identifying particulars (using an inked impressions method only) and personnel are available at the nominated police station for the stated date and time.

Upon attendance of the applicant at the nominated police station the OIC of that station, or delegate, is to compare the photograph of the applicant supplied by PETF with the person purporting to be the applicant. Where the officer considers it to be the same person, the officer is to ensure that the required identification particulars are taken using an inked impressions method and not LiveScan technology.

The two fingerprint forms are to be endorsed with the words 'Prostitution Act licence/certificate applicant' in the offence field. Fingerprints taken are to be forwarded to the PETF. The OIC, PETF is to ensure that all relevant inquiries with respect to the applicant are undertaken and the PLA notified.

ORDER

When an application for a licence or certificate has been refused, identifying particulars taken pursuant to ss. 13: 'Applicant to consent to identifying particulars being taken' and 38: 'Applicant to consent to identifying particulars being taken' of the *Prostitution Act* are to be destroyed, pursuant to s. 136: 'Destruction of identifying particulars etc.' of the *Prostitution Act*.

When notified by the PLA that an application has been refused, the OIC, PETF is to ensure that any identifying particulars and any record copy of photograph of them in relation to the applicant in the possession of the Service is destroyed following any relevant appeal period.

13.11.24 Criminal Proceeds Confiscation Act (application to prostitution)

When officers are conducting an investigation into unlawful prostitution and there is a likelihood of a substantial amount of commercial character involved in the unlawful prostitution, the officer in charge of the investigation should contact the OIC, Proceeds of Crime Unit, Crime and Intelligence Command.

The OIC, Proceeds of Crime Unit, should offer assistance to investigating officers to recover tainted property.

Section 250: 'Money laundering' of the *Criminal Proceeds Confiscation Act* should also be considered in terms of preferring charges of money laundering. If the money from the commission of the offence of unlawful prostitution is being concealed or dealt with in any way by those persons involved with the organisation and control of unlawful prostitution they may commit the offence of money laundering.

13.12 Railways

Where an officer is planning to undertake planned policing action or receives information relating to threats to safety on the Queensland Rail City Network see s. 2.19.16: 'Railway Squad' of this Manual.

13.12.1 Exercise of powers on railways

All officers may exercise the powers granted to an authorised person (see Delegation D 53.2) under Chapters 11: 'Enforcement' and 11A: 'Payment of fares and directions and offences' of the *Transport Operations (Passenger Transport) Act* (TO(PT)A) and includes the powers to require a person to:

- (i) provide information about offences against provisions of the Act under s. 128: 'Power to require information from certain persons';
- (ii) produce a ticket under s. 218I: 'Power to require production of tickets or tokens' of the Transport Operations (Passenger Transport) Regulation; and
- (iii) leave a train, railway or other passenger vehicle under:
 - (a) s. 143AHA: 'Power to require person to leave public transport infrastructure if person committing particular offences';
 - (b) s. 143AG: 'Direction to leave, or not to enter, vehicle'; or
 - (c) s. 143AH: 'Direction to leave or not to enter vehicle that is full'.

See also ss. 143AJ: 'Person given direction to be told particular things', 143AI: 'Direction not to be given in particular circumstances' and 143AK: 'Offence to contravene direction' of the TO(PT)A.

ORDER

Officers, other than officers wearing uniform, are not to exercise any power under the TO(PT)A in relation to any person unless they first display their police identity card for that person's inspection.

If it is impracticable for officers, not wearing uniform, to display their police identity card prior to exercising a power in relation to any person then they are to produce their identity card to that person as soon as practicable after exercising that power.

Officers, whether in uniform or not, who:

- (i) require a person to state their name and address; or
- (ii) exercise a power as a public official (authorised person for a railway),

are to, as soon as reasonably practicable, give their rank, surname and station or establishment to a person who is the subject of the power (see s. 637: 'Supplying police officer's details' of the PPRA).

Officers who are not in uniform who:

- (i) require a person to state their name and address; or
- (ii) exercise a power as a public official (authorised person for a railway),

are to, as soon as reasonably practicable:

- (i) tell the person of whom the requirement is made that the officer is a police officer; and
- (ii) produce their identity card for inspection by the person (see s. 637 of the PPRA).

13.12.2 Additional powers for removal of offenders from a railway

Additional powers for the removal of offenders from a railway exist in the:

- (i) PPRA:
 - (a) s. 50: 'Dealing with breach of the peace';
 - (b) s. 52: 'Prevention of offences – general'; and
 - (c) s. 48: 'Direction may be given to person' (see s. 13.23: 'Move-on power' of this chapter); and
- (ii) Criminal Code s. 281: 'Discipline of vehicle' (a vehicle includes a train).

(see also s. 2.29: 'Public transport exclusion orders and civil banning orders' of this Manual).

POLICY

When a person has been directed to leave a railway, train or other passenger vehicle, officers should consider prosecuting that person for the offence(s) which warranted the police action in the first place.

The location and the rights of other passengers should be considered in deciding whether to direct a person to leave a railway, train or other passenger vehicle.

13.12.3 Joint operations on Citytrain network

Queensland Rail's 'Joint Police Operations on Citytrain Network: Procedure' (JPOCN) available from the Railway Squad webpage on the Service Intranet provides guidance with respect to enforcement practices on the Citytrain network to ensure uniformity between various enforcement agencies in the planning and conduct of joint operations and to reduce operational impact on rail services (i.e. service delays and disruptions).

ORDER

All rail related operations whether conducted by the Service only or jointly between the Service and Queensland Rail officers are to be planned in collaboration with Railway Squad Tactician and according to the principles and procedures contained in the JPOCN.

Train sweeps, where trains are held at stations by officers and a sweep of the whole train is conducted (see s. 2.2.1: 'Static Operations – Train Sweeps' of the JPOCN) are not to be undertaken during peak periods (0600-0900 hrs and 1500-1800 hrs weekdays), unless prior arrangements have been made with Queensland Rail or there is an urgent requirement (e.g. searching a train to locate a serious criminal offender, recovering a high risk missing or mentally ill person, responding to calls for service).

13.12.4 Safety on rail networks**ORDER**

Officers are not to access the rail tracks or corridor except in an emergency. Should any person (officers, rail staff or other person) enter the rail corridor, officers are to immediately inform the appropriate Police Communications Centre, who will contact the Rail Management Centre.

13.13 Second-hand Dealers and Pawnbrokers

13.13.1 Application for licenses

ORDER

Officers are not to accept applications for licences under the *Second-hand Dealers and Pawnbrokers Act*. All inquiries in relation to licensing should be directed to the Office of Fair Trading, Department of Justice and Attorney-General.

13.13.2 Licence particulars

PROCEDURE

Officers that require licence particulars under the *Second-hand Dealers and Pawnbrokers Act* are to contact the Office of Fair Trading, Department of Justice and Attorney General.

13.13.3 Deleted

13.13.4 Stolen Property Investigation and Recovery System (SPIRS)

SPIRS is a computer system that matches information collected from licensees to information from QPRIME.

The purpose of SPIRS is:

- (i) to assist in the identification of stolen property and offenders; and
- (ii) to monitor the compliance of licensees.

The SPIRS Unit, Financial and Cyber Crime Group, Crime and Intelligence Command is responsible for:

- (i) maintenance of SPIRS;
- (ii) quality control of data input;
- (iii) maintenance of the SPIRS Use Guide and training material;
- (iv) security of SPIRS; and
- (v) maintaining liaison with SPIRS approved personnel and licensees supplying data.

Any problems identified with the operation of the system should be directed to the SPIRS Unit.

District officers should ensure that there are sufficient SPIRS trained officers, including the capacity to provide training to officers, within their district. The granting or removal of access privileges to SPIRS is at the discretion and direction of the OIC, SPIRS Unit.

Access passwords will be issued through the SPIRS Unit upon notification of the officer/s completing the approved training course. This training is to be conducted by trainers who have undertaken the relevant trainer course. Members who have access to SPIRS should assist, where possible, in ensuring compliance with the *Second-hand Dealers and Pawnbrokers Act*.

13.13.5 Engagement with licensees to provide transaction data to Stolen Property Investigation and Recovery System (SPIRS) Unit

Licensees are required to maintain a register of transactions, either printed or electronic, for each authorised place. The register is to contain particulars as per the *Second-hand Dealers and Pawnbrokers Regulation*.

OICs of districts should ensure that district instructions are developed for engagement with second-hand dealers and pawnbrokers within their area of responsibility to encourage those licensees to provide copies of their transaction registers to the SPIRS Unit. The non-provision of trade data by licensees to the SPIRS Unit is not a compliance issue to which s. 22 'Power to enter etc. for relevant laws' of the PPRA applies.

District instructions should include that:

- (i) collections are to be undertaken on a regular basis;
- (ii) irrespective of who actually collects the records, SPIRS approved members should be involved to ensure that SPIRS is updated to ensure licensees are complying with the act and the records are adequate; and
- (iii) all collected transaction records are forwarded to the OIC, SPIRS Unit, Financial and Cyber Crime Group, Crime and Intelligence Command, as soon as practicable after collection.

The OIC, SPIRS Unit is to ensure the received collections of transaction records are entered into SPIRS.

13.13.6 Deleted

13.13.7 Stolen Property Investigation and Recovery System (SPIRS) property matches

POLICY

SPIRS Unit staff are responsible for the analysis of all matches generated by SPIRS. Where property is matched or suspects identified through SPIRS, the officer identifying the match is to ensure a supplementary report is submitted for the relevant QPRIME occurrence and assigned to the officer in charge of the station or establishment where the property was traded for the appointment of a case officer to manage the recovery of the property and the location of the suspect.

Officers assigned occurrences for investigation are to comply with s. 1.11.6: 'Follow-up investigations' of this Manual, paying particular attention to verifying that the property identified by SPIRS is the property nominated on the occurrence report, and recovering the property.

13.13.8 Licensee audits

Section 22 of the PPRA allows an officer, to ensure compliance with a relevant law by a licensee, to inspect, photograph or copy a document or thing that is required or permitted to be kept under a relevant law at the place where located or at a place with appropriate facilities for photographing or copying the document or thing. The *Second-hand Dealers and Pawnbrokers Act* (SDPA) is a relevant law (see s. 21: 'Relevant law – Act, sch 6, definition relevant law' of the Police Powers and Responsibilities Regulation).

Licensees are required to maintain records of their business transactions, which may include:

- (i) pawn tickets – copies of pawn tickets on which all relevant data have been entered;
- (ii) register copies – photocopies of the actual register maintained by the licensee; and
- (iii) electronic download – an electronic download of data in the approved form, where the licensee maintains records on a computer-based system.

Where practicable, audit or compliance checks on licensees should be conducted with the assistance of Stolen Property Investigation and Recovery System (SPIRS) approved officers. Officers should view the SPIRS audit log to ascertain details of the last check on the relevant licensee or place.

ORDER

Where SPIRS approved officers are not available, officers conducting these checks or audits are to forward relevant details to a SPIRS approved member within the area of responsibility or the SPIRS Unit so details of the check or audit can be entered into SPIRS. SPIRS approved members receiving these details are to cause the details to be entered into SPIRS.

Details to be entered on SPIRS include:

- (i) the names, ranks and stations of all officers attending;
- (ii) any warning given with the time set for compliance, and to whom this warning was given; and
- (iii) any infringement notices issued (note – infringement notices are to be entered into the 'Breaches' section of SPIRS).

Officers commencing a prosecution under the provisions of the SDPA are to ensure that the details are entered into QPRIME (see QPRIME User Guide).

Officers issuing infringement notices to any licensee for any offences against the SDPA are to ensure that the details of this action are recorded on SPIRS.

Audit guidelines have been prepared in consultation with the Investigation Section of the Office of Fair Trading. Any audits are to be conducted in accordance with these guidelines. These guidelines and suggested forms are located in the CIC Guest folder/SPIRS Unit. Any request for clarification of these guidelines by officers or licensees should be referred to the SPIRS Unit.

13.13.9 Deleted

13.13.10 Deleted

13.13.11 Enforcement powers

Chapter 2, Part 1, ss. 19 to 25: 'Entry, inquiries and inspection' of the PPRA relates to powers of entry, inquiries and inspection generally and in relation to relevant laws.

The *Second-hand Dealers and Pawnbrokers Act* is a relevant law (see s. 21: 'Relevant law – Act, sch 6, definition relevant law' of the Police Powers and Responsibilities Regulation).

Powers of entry

Under s. 22: 'Power to enter etc. for relevant laws' of the PPRA, officers may, at any reasonable time, enter and stay on a place used for a purpose under a licence under the *Second-hand Dealers and Pawnbrokers Act* for ensuring compliance with that Act.

Powers to demand name and address

Sections 40: 'Person may be required to state name and address' and 41: 'Prescribed circumstances of requiring name and address' of the PPRA apply to offences against the *Second-hand Dealers and Pawnbrokers Act*.

In addition to the above, pursuant to ss. 40 and 41(g) of the PPRA, officers may require a person to state the person's correct name and address and if appropriate, evidence of the correctness thereof, if the officer reasonably believes obtaining the person's name and address is necessary for the administration or enforcement of the *Second-hand Dealers and Pawnbrokers Act*.

POLICY

To assist with the administration of infringement notices, officers should wherever possible, when requiring evidence of the correctness of the name and address given, ensure that the name and address of the alleged offender is confirmed by some means of photographic identification before issuing an infringement notice. Appropriate notes about identification should be made on the rear of the prosecution copy of the relevant infringement notice.

13.13.12 Deleted

13.13.13 Deleted

13.13.14 Discontinuing arrest

Section 377: 'Additional case when arrest of adult may be discontinued' of the PPRA outlines when police have a duty to release an adult who has been arrested. This duty includes when it is more appropriate to serve an arrested person with an infringement notice, notice to appear or summons for the offence (see s. 377(2) of the PPRA).

POLICY

Where an officer has arrested an adult person for a Fair Trading offence, the officer is to consider discontinuing the arrest and issuing an infringement notice to the person for the offence in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA.

Also see s. 16.6: 'Discontinuing arrest' of this Manual.

13.14 Stealing and like offences

13.14.1 Director of Public Prosecutions (State) Guidelines

POLICY

Officers should refer to Guideline 13: 'Summary charges' of the Director of Public Prosecutions (State) Guidelines when investigating offences contrary to ss. 5, 6 and 7 of the *Regulatory Offences Act*.

13.14.2 Recovery of suspected stolen property from the Department of Education

State schools maintain a register of equipment, with a value of \$500 or more, known as the OneSchool Asset Register. This register records details such as:

- (i) asset number – a number allocated by the responsible officer when the equipment is registered;
- (ii) asset description – description of the asset;
- (iii) serial number – the serial number of the asset; and
- (iv) location code – a departmental code which equates to the physical location of the asset within the department.

Some equipment valued less than \$500 may also be listed on a minor equipment register.

To facilitate the identification of property which may belong to the Department of Education, officers should contact the Finance Officer (Fixed Assets) Department of Education (see Equipment Management for Schools page of the Department's internet site for contact and further details).

13.14.3 Principal offenders (receiving stolen property when the 'thief' is dealt with under Regulatory Offences Act)

POLICY

Persons, who receive property obtained by means of an act constituting an indictable offence may be charged with the offence of receiving under s. 433 of the Criminal Code notwithstanding that the 'thief' has been prosecuted under the provisions of the *Regulatory Offences Act* (e.g. unauthorised dealing with shop goods).

In such cases officers should ensure that evidence is available to be given to establish that the property was in fact obtained by means of an act constituting an indictable offence (stealing).

Officers should consider the evidence carefully to establish whether the receiver can be charged under the *Regulatory Offences Act* as a party to the offence, on the basis of counselling or procuring the commission of the offence.

13.15 Issue of infringement notices generally

Prescribed infringement notice offences

The State Penalties Enforcement Regulation prescribes a number of offences under the following acts and regulations which can be dealt with by way of infringement notice. The acts and regulations include:

- (i) PPRA;
- (ii) *Prostitution Act*;
- (iii) *Second-hand Dealers and Pawnbrokers Act* (SDPA);
- (iv) *Security Providers Act* (SPA);
- (v) *Summary Offences Act*; and
- (vi) *Transport Operations (Marine Safety) Act* (TO(MS)A) and Regulation.

For a full list of offences which can be dealt with by way of infringement notice, see the OPStore, 'Infringement Notice Codes' on the Service Intranet or the State Penalties Enforcement Regulation.

For Service policy in relation to:

- (i) prescribed public nuisance offences, see s. 13.15.1: 'Issuing infringement notices for public nuisance, public urination and associated offences' of this chapter;
- (ii) offences under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA, see s. 13.15.2: 'Issuing infringement notices for contravention of an officer's direction or requirement' of this chapter;
- (iii) offences under the *Liquor Act*, see s. 13.7.10: 'Issuing infringement notices under the Liquor Act' of this chapter; and
- (iv) offences under the TO(RUM)A and Regulations, see Chapter 8: 'Infringement notices' of the TM.

Issuing authorities

The issuing authorities for prescribed infringement offences are, for:

- (i) PPRA, TO(MS)A and Regulation, and *Summary Offences Act* – the Department of Transport and Main Roads;
- (ii) SDPA and SPA – the Office of Fair Trading; and
- (iii) *Prostitution Act* – the Prostitution Licensing Authority.

Issuing an infringement notice

An infringement notice may only be issued if the alleged offender is able to provide details of their address (see s. 15(2)(c): 'Infringement notices' of the *State Penalties Enforcement Act*). Where a person has no address, alternatives to issuing an infringement notice should be considered, e.g. issuing a notice to appear.

Where an officer has made the decision to issue an infringement notice to a person for a prescribed offence, the officer should:

- (i) issue the relevant infringement notice in accordance with s. 8.6: 'Manner of issuing infringement notices' of the TM; and
- (ii) where a PT 56: 'Infringement notice' is issued for an offence (other than offences under the TO(RUM)A and Regulation and other 'road-related' offences):
 - (a) ensure a QPRIME occurrence is created for the offence/s including an 'Infringement Report'; and
 - (b) forward the 'station copy' and 'issuing authority' copy to their OIC.

Infringement enforcement history

Officers seeking enforcement history undertaken by other authorities are to contact the following, for:

- (i) SDPA and SPA – the Data Officer, Office of Fair Trading during business hours (9am to 5pm), by way of written request on official Service letterhead or if urgent, by telephone;
- (ii) *Prostitution Act* – the Principal Advisor, Compliance at the Prostitution Licensing Authority, by way of the internal email system,

(see SMCD).

Enforcement history for other prescribed offences appears on a person's non-TORUM related history.

Limit on number of infringements issued

In some cases, no more than three infringement notices may be issued to an offender. If more than three offences are detected, an officer may:

- (i) issue three infringement notices and issue a caution or where applicable a caution notice for the other offences; or
- (ii) commence proceedings for all offences by way of notice to appear or by arrest, where authorised under the provisions of the PPRA.

Interstate residents or overseas visitors committing offences

Where the issuing of an infringement notice or caution is not considered appropriate, officers may commence a prosecution by way of notice to appear or arrest where justified.

Where an overseas or interstate resident commits an offence and would be due to leave Queensland before such person is required to pay the infringement notice, the fine alone should not be considered sufficient cause to warrant the arrest of the person.

Officers who detect overseas residents committing offences may consider giving a caution where appropriate.

Officers who issue infringement notices to interstate residents should ensure the person's details are accurately entered on the infringement notice. The State Penalties Enforcement Registry (SPER) is unable to process infringement notices issued to interstate residents which do not contain a date of birth. However, it should be noted there is no legislative power to require a person to state their date of birth.

Officers who issue an infringement notice to an overseas visitor should:

- (i) where possible, show the alleged offender's current Australian address on the notice; and
- (ii) indicate on the prosecution copy of the notice the alleged offender's usual residential address and the date the alleged offender is due to leave Australia.

For offences not dealt with by the SPER, this information will assist if the infringement notice is returned unpaid to indicate whether the notice may be waived without the need for a report from the issuing officer.

Officers should be mindful of the contents of ss. 11.8: 'Diplomatic Privileges and Immunities Act' and 16.7: 'Foreign nationals' of this Manual.

Issuing infringement notices to children or persons with vulnerability, disability or cultural needs

Officers considering issuing an infringement notice to persons under 18 years of age for prescribed offences, are to follow the policy and procedures contained in s. 8.6.1: 'Infringement notice issued to persons under the age of 18 years' of the TM.

Officers should consider alternatives to issuing an infringement notice or commencing a proceeding where the person has a vulnerability, disability or cultural need, e.g. mental illness.

Depending on the circumstances of the offence committed, an officer may:

- (i) where available, refer the person to an appropriate agency (see also ss. 6.3.11: 'Homeless persons', 6.5.4: 'Alcohol and/or drug dependency', 6.5.5: 'Potentially harmful things (volatile substance misuse)', 6.6: 'Mentally ill persons' and 16.6.3: 'Intoxication' of this Manual);
- (ii) take no action and give a verbal caution to the person; or
- (iii) give a move on direction to the person (see s. 13.23: 'Move-on power' of this Manual).

Where an officer refers the person to an appropriate agency, officers should also give the person a verbal caution for the prescribed offence.

Where an officer gives a verbal caution for a prescribed offence, the officer should record in their official notebook or activity log the full particulars of the alleged offender together with the time, date, location, type of offence and any other relevant particulars.

Authorisation for issuing infringements for certain Acts

ORDER

Only officers appointed as shipping inspectors may issue a Marine Infringement Notice.

Officers are not to issue infringement notices for fair trading offences unless they have successfully completed the relevant Service-approved training.

Court election

When a person elects to defend an infringement notice in a court, the issuing authority will provide:

- (i) predetermined police districts/establishments with a Prosecution Pending List; or
- (ii) written advice along with the original infringement notice to the OIC of the issuing officer's station or establishment,

advising an offender has elected to contest the matter in a court.

Where the OIC of a district/establishment receives a Prosecution Pending List or written advice referring to a contested infringement notice, the officer is to refer the matter to the OIC of the station or establishment from where the infringement notice was issued.

OIC of stations or establishments who receive advice a person has elected to contest their infringement notice in a court, are to refer the matter to the officer who issued the infringement notice to consider commencing a proceeding against the person.

Officers who receive advice a person has elected to have their infringement notice dealt with in a court should consider ss. 3.4.1: 'Introduction', 3.4.2: 'The decision to institute proceedings' and 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual.

Withdrawal and cancellation of infringement notices

Withdrawal of an infringement notice refers to the discontinuance of enforcement action in relation to an infringement notice after the infringement notice has been issued to an alleged offender and the officer or offender has departed the scene.

Cancellation of an infringement notice refers to the revocation of an infringement notice because:

- (i) the infringement notice is reported as lost, stolen or damaged; or
- (ii) errors are detected on the infringement notice.

Officers seeking to withdraw or cancel infringement notices, are to follow the policy outlined in s. 3.4.4: 'Withdrawal of charges' of this Manual and s. 8.7: 'Waiving and cancellation of infringement notices' of the TM.

Determination on cancellation or withdrawal of infringement to be made

Upon receipt of a letter directly from an offender, a representative of an offender or the issuing authority, OIC are to:

- (i) review the grounds of the request for cancellation or withdrawal;
- (ii) determine the suitability of the request to cancel or withdraw the infringement; and
- (iii) forward written advice of their determination, along with a copy of the letter, to the issuing authority within 30 days of receipt of the request. The determination should include whether:
 - (a) the infringement notice should remain and be enforced; or
 - (b) the infringement notice should be withdrawn or cancelled; and
 - (c) another infringement notice should be issued/substituted.

Where the OIC of a station or establishment determines an infringement notice is to be withdrawn or cancelled, the OIC is to update the relevant QPRIME occurrence advising of the action taken and the 'Status' and 'Withdrawal Authorisation' fields within the Infringement Report is updated accordingly.

13.15.1 Issuing infringement notices for public nuisance, public urination and associated offences

For the purpose of this section:

Prescribed public nuisance offence

means an offence against ss. 6(1): 'Public nuisance' or 7(1): 'Urinating in a public place' of the *Summary Offences Act*, unless the offence also involves an offence against the person.

Associated offence

in relation to a prescribed public nuisance offence, means an offence against either or both of the following provisions, unless the offence also involves an offence against the person:

(i) s. 790(1): 'Offence to assault or obstruct police officer' of the PPRA but only to the extent it relates to obstructing an officer in the performance of their duties in relation to a prescribed public nuisance offence;

(ii) s. 791(2): 'Offence to contravene direction or requirement of police officer' of the PPRA, but only to the extent it relates to a requirement to state a person's correct name and address in relation to a prescribed public nuisance offence.

Prescribed offence

means a prescribed public nuisance offence and, where applicable, any associated offence,

(see s. 394(5): 'Duty of police officer receiving custody of person arrested for offence' of the PPRA).

Use of discretion and response options when attending prescribed offences

ORDER

Officers are only to issue an infringement notice to a person for a prescribed offence, in circumstances where the person would have otherwise been issued with a notice to appear or arrested for the offence.

Whenever practical, officers should use their discretion when dealing with prescribed offences and focus on de-escalation of the incident.

Depending on the circumstances of the prescribed offence committed, officers:

(i) where the person has a vulnerability, disability or cultural need (see s. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need' of this Manual), should:

(a) consider the available alternatives to commencing a prosecution;

(b) submit a Police Referral to for an appropriate agency to assist the person (see s. 6.3.14: 'Police referrals' of this Manual),

(see ss. 6.3.11: 'Homeless persons', 6.5.4: 'Alcohol and/or drug dependency', 6.5.5: 'Potentially harmful things (volatile substance misuse)', 6.6: 'Mentally ill persons' and 16.6.3: 'Intoxication' of this Manual);

(ii) may give a verbal caution to the person. Where a verbal caution is issued, the officer should create a QPRIME street check including the full particulars of the alleged offender together with the time, date, location, type of offence and any other relevant particulars;

(iii) may give a move on direction to the person (see s. 13.23: 'Move-on power' of this chapter);

(iv) may issue an infringement notice to the person; or

(v) may issue a notice to appear or arrest the person.

Where an officer refers the person to an appropriate agency, officers should also give the person a verbal caution for the prescribed offence.

Associated offence

ORDER

Officers are only to issue an infringement notice for an associated offence where an infringement notice is also to be issued for the prescribed public nuisance offence.

An associated offence does not include an offence against the provisions of s. 791(2): 'Offence to contravene direction or requirement of police officer' of the PPRA relating to a requirement the person give evidence of the correctness of the stated name and address in accordance with s. 40(2): 'Person may be required to state name and address' of the PPRA.

Examples of when an infringement notice for an associated offence, in addition to an infringement notice for a prescribed public nuisance offence, may be issued include:

(i) when the person obstructs an officer dealing with the person's prescribed public nuisance offence;

(ii) when the person disobeys a requirement by an officer to state their correct name and address in relation to the prescribed public nuisance offence; and

(iii) when the person is arrested for a prescribed public nuisance offence and later obstructs an officer at a watch-house (see 'Receiving custody of persons arrested for prescribed public nuisance offences' of this section).

Issuing an infringement notice

Infringement notices are to be issued in accordance with s. 13.15: 'Issue of infringement notices generally' of this chapter.

Where a person commits a number of prescribed public nuisance offences in the one set of circumstances, officers should only issue one infringement notice for the most relevant prescribed public nuisance offence.

Where an officer issues a PT 56: 'Infringement notice' to a person for a prescribed offence, the officer should, prior to:

- (i) serving the infringement notice, clearly cross out the 'Statutory Declaration' box on the rear of the offender's copy of the PT 56;
- (ii) submitting the pink and green copies of the PT 56 to their officer in charge:
 - (a) a QPRIME occurrence is created and the 'Infringement Report' is to be completed; and
 - (b) the relevant QPRIME occurrence number is recorded in the 'Information about the offence' field of the pink copy of the PT 56.

When an infringement notice has been issued for a prescribed offence, the issuing officer should record sufficient notes of the circumstances of the offence, any warnings given and to negate any defences, if a:

- (i) QNotice infringement notice is issued, in the notes tab of the occurrence; or
- (ii) PT 56 is issued, on the rear of the pink copy or in the officer's official police notebook.

Discontinuing a prescribed offence arrest

Where an officer has arrested an adult person for a prescribed offence, the officer is to consider discontinuing the arrest and issuing an infringement notice to the person for the offence in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA.

Where a prescribed officer at a police station, establishment or watch-house receives a person arrested for a prescribed offence, in accordance with s. 394(2)(ca) of the PPRA, the prescribed officer is to determine whether the arrest should be discontinued and an infringement notice issued.

Where the prescribed officer determines the arrest is to be discontinued, if the arresting officer:

- (i) is still at the police station, establishment or watch-house, the prescribed officer should direct the officer to issue an infringement notice; or
- (ii) has departed, the prescribed officer may issue an infringement notice on behalf of the arresting officer.

Where the prescribed officer decides to discontinue the prescribed offence arrest and issue an infringement notice on behalf of the arresting officer, the prescribed officer is to:

- (i) issue the prescribed offence infringement notice(s) to the offender;
- (ii) make appropriate notes:
 - (a) on the rear of the pink copy if a PT 56 is issued; or
 - (b) in the notes tab if a QNotice infringement notice is issued,indicating the infringement notice has been issued on behalf of the arresting officer;
- (iii) update the relevant QPRIME occurrence;
- (iv) send a QPRIME task to the arresting officer's organisational unit advising of the action taken;
- (v) if a PT 56 has been issued by the prescribed officer:
 - (a) complete an 'Infringement report' in the relevant QPRIME occurrence; and
 - (b) write the QPRIME occurrence number in the 'Information about the offence' field of the pink copy; and
- (vi) where identifying particulars have been taken, see 'Identifying particulars' of this section.

Identifying particulars

There are no provisions for the taking of identifying particulars of a person who has only been issued with an infringement notice for prescribed offences.

Where a person has been arrested for a prescribed offence and their identifying particulars taken prior the arrest being discontinued and an infringement notice issued, unless s. 474(2): 'Destruction of identifying particulars' of the PPRA apply, the identifying particulars are to be destroyed within a reasonable time in the presence of a justice.

Repeat offenders

Where officers become aware a person has been issued multiple infringement notices for prescribed offences, officers should consider alternatives to issuing further infringement notices.

13.15.2 Issuing infringement notices for contravention of an officer's direction or requirement

Where appropriate, officers may issue an infringement notice for offences under s. 791(2): 'Offence to contravene direction or requirement of police officer' of the PPRA.

Where a person fails to comply, without reasonable excuse, with a direction or requirement under:

(i) the PPRA;

(ii) s. 31: 'Prevention of contravention of public safety order' of the *Peace and Good Behaviour Act* (see 'Enforcing public safety orders' of s. 2.31.2: 'Public safety orders' of this Manual); or

(iii) s. 161ZL: 'Police powers for preventing contravention of control order' of the *Penalties and Sentences Act*, (see 'Preventing breaches of control order' of s. 2.31.7: 'Control orders' of this Manual),

an offence under s. 791 of the PPRA is committed.

Depending on the circumstances surrounding the commission of the offence, officers may:

(i) issue an infringement notice to the person;

(ii) issue a notice to appear to the person; or

(iii) arrest the person.

Issuing an infringement notice

Infringement notices are to be issued in accordance with s. 13.15: 'Issue of infringement notices generally' of this chapter.

Where an officer issues a PT 56: 'Infringement notice' to a person, the officer should, prior to:

(i) serving the infringement notice, clearly cross out the 'Statutory Declaration' box on the rear of the offender's copy of the PT 56; and

(iii) submitting the pink and green copies of the PT 56 to their OIC:

(a) a QPRIME occurrence is created and the 'Infringement Report' is to be completed; and

(b) the relevant QPRIME occurrence number is recorded in the 'Information about the offence' field of the pink copy of the PT 56.

When an infringement notice has been issued for an offence under s. 791 of the PPRA, the issuing officer should record sufficient notes of the circumstances of the offence, any warnings given and to negative any defences, if a:

(i) QNotice infringement notice is issued, in the notes tab of the occurrence; or

(ii) PT 56 is issued, on the rear of the pink copy or in the officer's official police notebook.

Discontinuing arrest

In appropriate circumstances and where an officer has arrested an adult person for an offence under s. 791 of the PPRA, the officer should consider discontinuing the arrest and issuing an infringement notice to the person for the offence in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA.

There is no authority under s. 394: 'Duty of police officer receiving custody of person arrested for offence' of the PPRA for a prescribed police officer at a police station, establishment or watch-house to discontinue the arrest and issue an infringement notice.

The only option for a prescribed police officer is to issue a QP 0699: 'Notice to appear', and if identifying particulars have not been taken, a QP 0700: 'Identifying Particulars Notice' and release the person.

Identifying particulars

There are no provisions for the taking of identifying particulars of a person who has been issued with an infringement notice for an offence under s. 791 of the PPRA.

13.16 Animals

13.16.1 Cruelty to animals

POLICY

Officers are to consider the provisions of s. 242(1): 'Serious animal cruelty' of the Criminal Code when investigating incidents involving cruelty to animals. An offence against this section is a crime.

Throughout an animal cruelty investigation, consultations with appropriate external law enforcement organisations may be utilised to identify the lead agency and whether a prosecution is to be commenced by the Service, or otherwise.

13.16.2 Dog attacks and regulated dogs

POLICY

Responding to complaints of dog attacks is the responsibility of the relevant local government authority. Members should generally refer persons with complaints about dog attacks to the relevant local government authority.

However, the provisions of the Criminal Code may apply in some instances. For example, an offence of assault may be proved in cases where the owner or controller of a dog has intentionally caused the dog to attack another person.

Where a complaint of a dog attack may lead to the prosecution of a person for a criminal offence, officers are to liaise with the local government authority to ensure that any necessary evidence is obtained (e.g. photographs) before the dog is destroyed.

The management of regulated dogs is the responsibility of the relevant local government authority. Chapter 4: 'Regulated dogs' of the *Animal Management (Cats and Dogs) Act* outlines the responsibilities of the local government authorities and provides definitions of a:

- (i) declared dangerous dog;
- (ii) declared menacing dog; and
- (iii) restricted dog.

13.16.3 Providing relief to an animal at a place or vehicle

POLICY

Section 147(2): 'Powers to provide relief to animal' of the PPRA provides that an officer may enter and stay at a place, other than a vehicle, while it is reasonably necessary to provide the food or water or to disentangle an animal if:

- (i) the officer reasonably suspects:
 - (a) the animal at the place, is suffering from lack of food or water or is entangled;
 - (b) the person in charge of the animal is not, or is apparently not, present at the place; and
- (ii) the animal is not at a part of the place at which a person resides, or apparently resides.

Section 147(4) of the PPRA provides that an officer may enter a vehicle if the officer reasonably suspects there is a need to enter the vehicle to relieve an animal in pain in the vehicle or prevent an animal in the vehicle from suffering pain.

Although s. 614: 'Power to use force – exercise of certain powers' of the PPRA provides it is lawful for an officer, and anyone helping the officer, to use reasonably necessary force when exercising or attempting to exercise a power under that Act, officers are to first obtain the authorisation of the regional duty officer, patrol group inspector or district duty officer to use force if the envisaged use of the reasonably necessary force is likely to cause damage to the place or the vehicle.

ORDER

Where damage is caused by an officer, or an officer's assistant, in exercising a power under the PPRA, the officer who caused the damage, or the officer whose assistant caused the damage, is to also comply with s. 636: 'Police officer to give notice of damage' of the Act.

13.16.4 Destruction of animals

Section 468: 'Injuring animals' of the CC makes it an offence for a person to unlawfully kill, maim or wound any animal capable of being stolen, however there may be some circumstances where it is lawful for a person to defend or protect oneself, another, or property from injury (see ss. 458: 'Unlawful acts' and Chapter 5: 'Criminal responsibility' of the CC).

Destruction of an animal by a police officer

Under certain conditions an officer may destroy or cause an animal to be destroyed (see s. 148: 'Power to destroy animal' of the PPRA).

Guidelines for the humane destruction of animals are contained on the Operational Skills and Tactics section web page of the Service intranet.

Biosecurity Act

ORDER

The provisions of s. 318: 'Power of destruction' of the *Biosecurity Act* are not to be relied upon unless the officer concerned has been given written approval to be an authorised person under that Act by the Commissioner (see s. 13: 'Appointment of police officers as public officials for other Acts' of the PPRA).

13.16.5 Animal welfare directions

In cases where s. 142: 'Application of pt 5' of the PPRA such as:

- (i) an animal has been seized which is under imminent risk of death or injury;
- (ii) a person has committed, is committing or is about to commit, an animal welfare offence; or
- (iii) an animal:

- (a) is not being cared for properly;
- (b) is experiencing undue pain;
- (c) requires veterinary treatment; or
- (d) should not be used for work,

and the officer considers it to be necessary and reasonable in the interests of the animal's welfare, the officer may give a written animal welfare direction (see s. 143: 'Power to give animal welfare direction' of the PPRA).

When giving an animal welfare direction, officers are to complete:

- (i) a Form FDU 1428: 'Animal welfare direction';
- (ii) a Form FDU 1431: 'Schedule to an animal welfare direction'; and
- (iii) a Form FDU 1430 'Information notice – animal welfare direction',

a copy of these documents is to be given to the person(s) in charge of the animal.

The information notice is to explain the decision, the reasons for the decision, that the person to whom the notice is given may apply to the chief executive for a review of the decision within 14 days after the person receives the notice, and how to apply for a review.

Prior to giving an animal welfare direction, the officer intending to give the direction is to ensure that QPRIME is checked to ascertain whether the person in charge of the animal is already subject to a current animal welfare direction for the same animal. Similar checks should also be made with the Principle Investigations Officer or Senior Biosecurity Officer of the Department of Agriculture and Fisheries (DAF) (see SMCD).

Where the person in charge is already subject to a current animal welfare direction, the officer intending to give the animal welfare direction is to check whether the previous direction is being complied with and only give another direction if the action(s) required by the previous animal welfare direction are insufficient to improve the animal's welfare.

When an animal welfare direction is given, the officer who gave the direction is to ensure that:

- (i) a flag is added to the QPRIME person record indicating that the person is subject to an animal welfare direction and that the original forms are filed at their station or establishment; and
- (ii) a copy of the forms is provided to the Animal Biosecurity and Welfare Unit, DAF (see SMCD).

In cases where an animal welfare direction requires a person in charge of an animal to present the animal to a stated station or establishment to show that the direction has been complied with, the officer who gave the animal welfare direction is to ensure that a copy of the animal welfare direction form is forwarded to the OIC of the nominated station. A QPRIME task should also be created and forwarded to the nominated station.

Where an OIC of a station or establishment receives a copy of an animal welfare direction form and that direction requires the person in charge of an animal to present the animal to a station or establishment to show compliance, the documents should be made accessible to those members who are likely to be required to inspect the animal.

In instances where a member inspects an animal as part of checking compliance with an animal welfare direction the member is to complete the QPRIME task and return it to the officer that issued the animal welfare direction with the details of the inspection and whether the direction was complied with.

(Note – an interagency agreement between the Service, RSPCA Queensland Inc. and DAF addresses what is required where the responsibility of checking an animal welfare direction given by an officer is to be transferred to one of these other agencies).

Oral direction

An animal welfare direction may be given orally only in cases where:

- (i) the officer considers it to be in the interests of the animal's welfare to give the direction immediately;
- (ii) for any reason it is not practicable to immediately give the direction in the approved form; and
- (iii) the officer warns the person it is an offence not to comply with the direction unless the person has a reasonable excuse.

ORDER

If the animal welfare direction is given orally, the officer that gave the direction is to confirm the direction by also giving a copy of the written animal welfare direction forms (i.e. FDU 1428, FDU 1430 and FDU 1431) as soon as practicable after giving it orally.

13.16.6 Failure to comply with an animal welfare direction

POLICY

The responsibility of checking whether an animal welfare direction has been complied with rests with the officer who issued the animal welfare direction.

In cases where a suspected contravention of an animal welfare direction is detected, the officer who detected the contravention is to ensure an investigation for an offence against s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA is commenced.

If the animal welfare direction has only been given orally, and the written animal welfare direction forms have not yet been given to the person, officers are to ensure that the provisions of s. 633: 'Safeguards for directions or requirements' of the PPRA are complied with before a prosecution is commenced.

Where a prosecution has been commenced for a failure to comply with an animal welfare direction, the investigating officer is to send a QPRIME task to the officer in charge of the police station to which the officer who issued the animal welfare direction was attached at the time the direction was issued. The officer is to request the original animal welfare direction forms to be forwarded to the investigating officer for inclusion in the occurrence and any subsequent full brief of evidence.

13.16.7 Review and appeal of an animal welfare direction

A person who has been given an animal welfare direction may apply to have the decision to give an animal welfare direction reviewed by lodging an application on an approved form with the Chief Executive, Department of Agriculture and Fisheries (DAF).

Where an application for review of the animal welfare direction has been made, the Chief Executive, DAF will notify the officer who gave the direction of the pending review.

The review process does not override any requirements of the animal welfare direction. The relevant officer should continue to ensure the direction is complied with.

When notified by the Chief Executive, DAF the officer who gave the animal welfare direction is to prepare a report outlining the circumstances leading to the decision to give the direction and submit it to the Chief Executive, DAF through the OIC of their region or command.

Where the Chief Executive has reviewed the decision of an officer to issue an animal welfare direction and exercised a power under s. 197: 'Internal review' of the *Animal Care and Protection Act* (ACPA) and the officer is aggrieved by the decision, the officer may apply to their region or command OIC for approval to appeal the decision (see s. 199: 'Who may appeal' of the ACPA).

ORDER

Officers are not to appeal the Chief Executive's decision without appropriate approval.

13.16.8 Providing assistance to the Department of Agriculture and Fisheries and Royal Society for the Prevention of Cruelty to Animals Incorporated

Authorised officers and inspectors of the Department of Agriculture and Fisheries (DAF) and the Royal Society for the Prevention of Cruelty to Animals Incorporated (RSPCA), may request police assistance for investigating an animal welfare offence.

Such requests for assistance will usually relate to instances where DAF and/or RSPCA officers are likely to be exposed to an increased risk of physical harm should they attempt to exercise a power under the *Animal Care and Protection Act*.

Where the request for assistance relates to a location within an area controlled by a police communications centre, member should refer such requests to the duty officer of the relevant police communications centre.

In considering the request, the duty officer should have regard to the reasons provided by the DAF and/or the RSPCA in deciding whether it is necessary to provide a police response. In cases where the provision of a police response is necessary, consideration should also be given as to whether a negotiated response would be appropriate in the circumstances.

(Note – an interagency protocol between the Service, the RSPCA and DAF, addresses how the Service will deal with such requests for assistance.)

13.16.9 Dealing with an animal welfare incident

Members who are contacted by informants in relation to animal welfare incidents are to direct those informants to the Department of Agriculture and Fisheries (DAF), or the Royal Society for the Prevention of Cruelty to Animals Incorporated (RSPCA) (see the SMCD). However, in instances where:

- (i) the relevant incident is a 'critical incident' (i.e. an incident where the welfare of the animal is severely compromised, and there is an urgent need to alleviate pain and suffering); and

(ii) DAF or the RSPCA is unable to respond within a reasonable time,

members should ensure that an officer investigates the matter and action is taken to alleviate the pain and suffering of the animal.

In the normal course of policing duties, officers may detect possible breaches of the *Animal Care and Protection Act* (ACPA). The Service has a duty to uphold the law generally and while officers may commence investigations into these matters, consideration should first be given to the possibility of referring the matter to the DAF or the RSPCA. This may be done without the need to make a Policelink entered occurrence.

DAF or the RSPCA is the most appropriate agency will depend on the location and the classification of the animal concerned. As a general rule, the RSPCA is responsible for dealing with incidents involving companion animals and hobby farm animals and DAF is responsible for dealing with incidents involving commercial livestock.

DAF and the RSPCA may accept the responsibility of completing an investigation into a possible breach of the ACPA provided:

- (i) the Service has not commenced significant inquiries into the matter; and
- (ii) the location of the incident allows DAF or the RSPCA to commence an investigation within an appropriate time.

Where an officer believes it is more appropriate to refer a possible breach of the ACPA to either DAF or the RSPCA, the officer is to make the request through their OIC.

If it is considered appropriate, the OIC may refer the matter to the Operations Coordinator, DAFF. The Operations Coordinator will determine whether DAF or the RSPCA is the most appropriate agency to respond.

Powers are available to officers to alleviate an animal's pain and suffering (e.g. ss. 143: 'Power to give animal welfare direction', 146: 'Power in relation to offences involving animals', 147: 'Powers to provide relief to animal' and 148: 'Power to destroy animal' of the PPRA).

Also, a number of specific provisions authorise officers to seize animals in certain circumstances (e.g. ss. 137(1): 'Removal of animals from roads and other places', 146(2)(c) and (d) and 157(1)(h): 'Powers under search warrant' of the PPRA). However, officers should consider the alternatives to seizing an animal where circumstances permit (e.g. arranging for a local government animal control unit to impound an abandoned animal).

Steps before seizing an animal under s. 146(2)(d) of the PPRA

Section 146 of the PPRA provides officers with powers to enter places, search for, and seize, animals in certain circumstances, and when the provisions apply. An officer may seize the animal if:

- (i) the officer reasonably suspects the animal is:
 - (a) under an imminent risk of death or injury;
 - (b) requires veterinary treatment; or
 - (c) is experiencing undue pain and the interests of its welfare require its immediate seizure; or
- (ii) the person in charge of the animal has contravened, or is contravening, an animal welfare direction, under the PPRA or the ACPA, or a court order about the animal.

DAF or the RSPCA may be able to assist officers in seizing an animal under s. 146(2)(d) of the PPRA in addition to transporting, caring for and forfeiting the animal to the State pursuant to s. 154: 'Power to forfeit' of the ACPA. However, officers are to comply with the following procedure to secure such assistance.

Where circumstances permit, before seizing an animal pursuant to s. 146(2)(d) of the PPRA officers should:

- (i) contact an inspector from either DAF or the RSPCA to discuss the nature of the animal's injuries and/or condition and options available. Where an inspector cannot be contacted, inquiries may be directed to the Operations Coordinator of either agency;
- (ii) if possible, take digital photographs of the animal to brief the inspector about the extent of animal's injuries (The inspector will wherever possible forward any photographs to the relevant agency's veterinarian for a professional opinion to support the advice); and
- (iii) forward any digital photographs taken of the animal to the inspector by e-mail (the photographs should be compressed/zipped and the e-mail should outline the circumstances that require the sending of the photographs).

In some cases, after seizing an animal under s. 146(2)(d) of the PPRA, officers may seek to have the animal forfeited to the State under the provisions of s. 154 of the ACPA (see 'Disposal under the Animal Care and Protection Act' in s. 4.6.11: 'Disposal of animals' of this Manual).

(Note – an interagency protocol between the Service, DAF and the RSPCA addresses how and when the Service will respond to an animal welfare incident that is usually dealt with by these other agencies.)

13.16.10 Carcasses of animals on roads

POLICY

Where members become aware that the carcass of an animal is on a road, and as necessary for ensuring the safe and effective flow of traffic, officers should contact or arrange contact with a local government authority to remove the carcass.

13.17 Trespass

13.17.1 When to take action for trespass

Trespass on land is actionable as a civil wrong. However, trespass may also amount to a criminal offence.

The decision by police to take action for this type of criminal offence is therefore only be made when:

- (i) one or more of the following requirements is present:
 - (a) where specific legislation exists;
 - (b) the officer has a reasonable suspicion the person trespassing is committing, has committed or is intending to commit an offence;
 - (c) the person trespassing is committing a breach of the peace;
 - (d) a safety issue arises; or
 - (e) the person in peaceful possession of the land/place is not able to readily remove the person; and
- (ii) the provisions of s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual have been fulfilled.

When a trespass on a person's property goes beyond the realm of civil trespass

Section 11: 'Trespass' of the *Summary Offences Act* and s. 48A: 'Unlawful entry of dwelling houses' of the *Invasion of Privacy Act* are similar in respect to 'unlawful trespassing'. These provisions are not intended to prohibit persons entering another person's property for lawful purposes. For example, to knock at a person's door to seek a direction or look for a person.

Pursuant to this legislation, an offence is committed if something more than 'trespass' in the civil sense is proved. For example the continual trespassing of children onto a neighbour's property to retrieve a football would be trespass in the civil sense, whereas a trespass by a person intending to commit an offence or a 'peeping tom' could be trespassing in the criminal sense. Nevertheless, it is not the intention of this legislation to make every civil trespass a criminal offence.

Officers investigating complaints under these two Acts are to consider the intention of the person against whom the complaint is made and their reasons for entering or being on the premises, prior to commencing a prosecution.

Officers are to note that an offence against s. 11 of the *Summary Offences Act* is a declared offence for the purposes of s. 634: 'Safeguards for declared offences under Summary Offences Act' of the *Police Powers and Responsibilities Act*.

Officers are to also consider s. 13 'Unlawfully entering farming land etc' of the *Summary Offences Act* when investigating a complaint of trespass or interference of livestock, animal husbandry or agricultural activities.

See also s. 13.17.5: 'Trespass in shopping centres' of this chapter.

13.17.2 Requests to remove person(s) from a place, etc. for trespass or disorderly conduct

Officers assisting persons in the peaceable possession of any land, structure, vessel or place to lawfully remove persons improperly there are taken to be acting in the exercise of their duty despite if assistance could be provided by a person who is not an officer (see s. 792: 'Performance of duty-police officers' of the PPRA).

Officers are to establish the relationship between the parties and commence an investigation if appropriate (see Chapter 2: 'Investigative Process' of this Manual).

If a formalised tenancy arrangement exists between the parties the matter should be referred to the Residential Tenancies Authority.

Officers requested to assist to remove a person(s) from any land, structure, vessel or place are to refer to s. 277: 'Defence of premises against trespassers – removal of disorderly persons' of the CC. This section authorises a person in peaceable possession of any land, structure, vessel or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person lawfully assisting or acting by his or her authority, to use such force as is reasonably necessary in order to:

- (i) prevent any person from wrongfully entering upon the land, structure, vessel, or place; or
- (ii) to remove a person who:

- (a) wrongfully remains therein; or
- (b) conducts himself or herself in a disorderly manner therein;

provided that grievous bodily harm is not done to such person.

Officers are to be satisfied that they can rely on the statement of the person in authority before assistance is given, e.g. assisting the person in control of a household to remove another person from that dwelling. Also, officers are to record in their official police notebook the nature of the request of the person in authority for police assistance. The person in authority should be requested to sign the notebook.

When officers are requested to assist and it is ascertained that the trespasser has committed, or is committing an offence, or is a party to a breach of the peace then appropriate action is to be taken to prosecute. See Chapter 3: 'Prosecution Process' of this Manual.

Where a relevant relationship exists

Officers are to establish if a relevant relationship (see s. 13: 'Meaning of relevant relationship' of the DFVPA) exists between the parties and investigate, or cause to be investigated, if the officer reasonably suspects that domestic violence has been committed (see s. 100: 'Police officer must investigate domestic violence' of the DFVPA, ss. 6.5.1: 'Age related needs' and 9.4.2: 'Investigating domestic violence (initial action)' of this Manual).

Where a relevant relationship exists between the parties, officers should consider whether cool-down, no-contact, or ouster conditions are necessary or desirable to protect the person requiring police assistance (see Part 4, Division 2 'Power to issue police protection notice' of the DFVPA). Officers are also to conduct an investigation to determine if any offences have been committed and take action where appropriate (see ss. 2.4, 6.5.1 and 9.4.2 of this Manual).

Protective service officers

In order to maintain the security of a state building, a protective services officer may direct an entrant, or group of entrants, to not enter or to leave the building immediately and to take the belongings of the entrant or group of entrants out of the building, if the officer reasonably suspects:

- (i) the behaviour of the entrant or entrants is or has been disorderly, indecent, offensive or threatening to a person entering, at or leaving the building; or
- (ii) the entrant or entrants have not complied with a requirement under s. 550: 'Power to require name and address and reason for entry' of the PPRA; or
- (iii) the entrant or entrants have not complied with a request under:
 - (a) s. 551: 'Use of electronic screening devices'; or
 - (b) s. 552: 'Power to inspect entrant's belongings' of the PPRA; or
- (iv) the entrant or entrants have no good and lawful reason to enter or be at the building.

The protective services officer must give the entrant or group of entrants the reasons for the direction.

13.17.3 Trespass (Industrial disputes)

In accordance with the provisions of the *Industrial Relations Act* (IRA), *Fair Work Act* (Cwlth) and the *Work Health and Safety Act* (WHS Act) various persons have been authorised and have the right to:

- (i) enter a workplace;
- (ii) make inspections of the workplace;
- (iii) inspect any plant and equipment;
- (iv) meet with and have discussions with employees;
- (v) copy a document at the workplace;
- (vi) inspect, photograph or film any part of the place or anything at the workplace;
- (vii) require a person to state their name and address;
- (viii) take anything into or onto the workplace the persons, equipment and materials an inspector reasonably requires for exercising a power; and
- (ix) require a person at the workplace to give an inspector reasonable assistance to carry out any of the above duties.

Authorised persons, generally officials employed by a union or other industrial organisation, may enter and remain on relevant workplaces and have powers to investigate industrial relations and health and safety matters. The authorised persons have been issued by the relevant authority an authorisation containing identification particulars, name of the industrial organisation, the relevant Act and section under which the authorisation is issued and any limitations of powers.

Any person wanting to enter a workplace for the purposes of investigating a suspected contravention of the nominated Act, who is not an authorised person or authorised representative or in possession of a relevant permit, should not enter the workplace unless the occupier has given consent.

Industrial Relations Act

Authorised persons under this Act are referred to as **'authorised industrial officers'**. For further information regarding entry powers, powers, functions, obligations and limitations of authorised persons, refer to the IRA.

Fair Work Act (Commonwealth)

Authorised persons under this Act are referred to as **'permit holders'**. For further information regarding the authorisation, entry powers, powers, functions, obligations and limitations of permit holders, refer to the *Fair Work Act* (Cwlth).

Work Health and Safety Act

Authorised persons under this Act are referred to as **'authorised representatives'**. For further information regarding entry powers, powers, functions, obligations and limitations of authorised representatives, refer to the WHSA.

Attending industrial disputes

The Office of Industrial Relations (OIR) is empowered through its inspectorate to ensure work health and safety compliance and respond to incidents at worksites under the WHSA.

Officers called to attend a disputed entry into worksite are to, prior to attending or as to as soon as practicable, notify OIR (see SMCD), who will appoint a Workplace Health and Safety Inspector to deal with the dispute under the WHSA. Officers attending the worksite are to follow the advice provided by the Workplace Health and Safety Inspector (see Part 5 – 'Disputed entry issues' of the Memorandum of Understanding).

Officers are not to force entry into a worksite or become involved in the dispute unless there is:

- (i) an apparent danger to persons; or
- (ii) to prevent riots, breaches of the peace or law (see ss. 50: 'Dealing with breach of the peace', 51: 'Prevention of riot' and 52: 'Prevention of offences – general' of the PPRA).

Other assistance and advice about relevant legislation or specific circumstances may be obtained. Sources include:

- (i) regional duty officer or district duty officer;
- (ii) Police Communications Centre;
- (iii) Operational Legal Advice;
- (iv) QPS Industrial Officers, Employee Relations;
- (v) QPS Health and Safety Advisors, Health, Safety and Wellbeing Division; and
- (vi) the Australian Government Fair Work Building & Construction website.

Removal of persons from a workplace

Officers are not to remove authorised persons from a workplace if they are there lawfully and have not committed a breach of the peace or other offence. Officers may assist an occupier to remove persons from a workplace:

- (i) if the OIR official advises those persons have no legal authority to be in those premises (see s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual);
- (ii) if those persons are behaving in a disorderly manner, see ss. 277: 'Defence of premises against trespassers – removal of disorderly persons' of the CC and 13.17.2: 'Requests to remove persons(s) from a place, etc. for trespass or disorderly conduct' of this chapter; or
- (iii) where the provisions of ss. 11: 'Trespass', 12: 'Persons unlawfully gathering in or on a building or structure' of the *Summary Offences Act* apply and 13.17.1: 'When to take action for trespass' of this chapter.

13.17.4 Wheel clamping of motor vehicles

Wheel clamping is an offence

Unless authorised by the owner or person in lawful possession of a vehicle, it is unlawful to:

- (i) attach an immobilising device to the vehicle (e.g. a wheel clamp or other device which effectively detains the vehicle); or
- (ii) placing an immobilising device near the vehicle (e.g. by locking a moveable steel post, at the entrance of a parking space where the vehicle is parked to prevent the vehicle leaving),

(see s. 135(1)(c): 'Unlawfully interfering with, or detaining, vehicles etc.' of the *Transport Operations (Road Use Management) Act TO(RUM)A*).

The prohibition on the use of immobilising devices does not apply to:

- (i) the sheriff or another person authorised by law to execute a warrant of execution against the vehicle;
- (ii) an enforcement officer authorised by law to enforce an immobilisation warrant against the vehicle, see Part 5, Division 7A: 'Enforcement by vehicle immobilisation' of the *State Penalties Enforcement Act*; and
- (iii) a person exercising a power over a vehicle that the person may have as the holder of a security interest in the vehicle.

ORDER

Whilst s. 135(2) authorises an officer to use or direct another person to use an immobilising device on a vehicle, the Service has directed that officers are not to use an immobilising device on a motor vehicle (see s. 16.3: 'Alternatives to impounding motor vehicles (immobilising powers) of the Traffic Manual).

Rights of motorists and rights of land owners

Generally, motorists may park or drive on private property only with the consent, express or implied, of the owner or occupant of the land. Parking or driving on private land without any such consent may constitute a civil trespass. Whilst the owner or occupier of the land may not use wheel clamping, the person may:

- (i) remove, or cause to be removed, from land a vehicle parked or left standing on private land (see s. 13.1.3: 'Towing of motor vehicles parked on private property' of this chapter); and
- (ii) seek restitution from the vehicle's owner for 'damages', known as distress damage feasant (see 'Distress damage feasant' in s. 13.1.3: 'Towing of motor vehicles parked on private property' of this chapter).

The right of distress damage feasant is vested, in general, only in the occupier of land.

Dealing with complaints

PROCEDURE

When a complaint is received with respect to vehicles trespassing on privately owned land, which has not been declared by the relevant local government as an off street regulated parking area under the TO(RUM)A, members should:

- (i) check the vehicle's registration number to ensure that it has not been reported stolen;
- (ii) advise the complainant that it is a civil trespass and private legal advice should be sought by the complainant;
- (iii) advise the complainant in terms of s. 135: 'Unlawfully interfering with, or detaining, vehicles etc.' of the TO(RUM)A; and
- (iv) inform the complainant that in the eventuality that the vehicle is towed away from the land that the local police communications centre should be advised of the vehicle's identification particulars, the towing company involved and the place where it was towed to.

When a complaint is received with respect to a vehicle unlawfully parked on privately owned land which has been declared as an off street regulated parking area, members should establish from the complainant:

- (i) whether the motorist is entitled to park the vehicle where it is located;
- (ii) whether there are any traffic signs or markings located at the parking space/location;
- (iii) whether s. 125(1)(d): 'Prescribed circumstances for s 124' of the PPRA applies;
- (iv) if a Traffic Infringement Notice been issued by the local government in relation to the vehicle. If no notice has been issued the complainant should be advised to contact the local government; and
- (v) whether the owner of the vehicle is present or has been contacted. If the owner has been contacted and is attending or is present, the complainant should be advised that police will attend if the owner refuses to move the vehicle or otherwise comply with the prescribed conditions for parking in the particular area.

Officers should attend the scene of such a complaint in circumstances where:

- (i) a vehicle is unlawfully parked in a regulated off-street parking area; and
- (ii) the vehicle is parked so as to be liable to seizure and removal under s. 125(1)(d) of the PPRA.

13.17.5 Trespass in shopping centres

Shopping centres are private property for which an implied invitation to enter is extended to the general public. The management of a shopping centre may withdraw that invitation from any person. In some cases such a withdrawal of the invitation is made by the giving of a written notice to the person concerned, although the withdrawal can be made verbally.

ORDER

Officers are not to act on behalf of the management of a shopping centre to withdraw the invitation of a person to enter a shopping centre by giving written or verbal notice to a person that the person is not permitted to enter the shopping centre.

POLICY

Where a person enters a shopping centre after their invitation to enter has been withdrawn, officers should consider whether a prosecution for an offence under s. 11: 'Trespass' of the *Summary Offences Act* is warranted. In making this determination, officers should refer to s. 3.4: 'General prosecution policy' and s. 13.17.1: 'When to take action for trespass' of this Manual.

Where a prosecution for an offence of trespass cannot be supported, officers may advise the shopping centre management that they may wish to consider their options of redress through civil litigation for the tort of trespass.

If requested to do so, officers are to assist a person entitled to the management or control of a shopping centre to remove persons who are improperly there, in accordance with s. 13.17.2: 'Requests to remove person(s) from a place, etc. for trespass' of this chapter.

Officers should, in appropriate circumstances, also consider the provisions of s. 50: 'Dealing with breach of the peace' and s. 48: 'Direction may be given to person' of the PPRA when dealing with disorderly persons or trespassers in a shopping centre (see also s. 13.23: 'Move-on power' and 13.4: 'Peace and Good Behaviour Act' of this chapter).

13.18 Warrants

13.18.1 Introduction

Warrants can be issued in two forms either as a:

- (i) computer warrant (eWarrant), which is created using a computer and the information is stored electronically; or
- (ii) paper warrant, which is a written warrant issued by a person, issued under a person's hand, or signed by a person. A certified copy of a paper warrant can be transmitted electronically (using a fax or computer) and printed but is not a computer warrant.

Computer warrant (eWarrant)

A computer warrant (eWarrant) is created using a computer and the information is stored electronically. An eWarrant may be created even though the warrant is authorised under a provision of an Act authorising the issue of a warrant based on an application made by telephone or other form of distance communication.

The types of eWarrant prescribed by Justice Regulation for the purpose of s. 66(4): 'Purpose and application of division' of the *Justices Act* (JA) include:

- (i) a warrant issued under the *Bail Act* (BA);
- (ii) a warrant issued under the JA;
- (iii) a warrant issued under the *Criminal Practice Rules*, rule 28;
- (iv) a warrant issued under the *Domestic and Family Violence Protection Act*;
- (v) a warrant of commitment issued under the *Penalties and Sentences Act* (PSA);
- (vi) an arrest warrant issued under the PPRA;
- (vii) a warrant issued under the *State Penalties Enforcement Act* (SPEA); and
- (viii) a warrant issued under the *Youth Justice Act*.

A QPRIME warrant report generated and printed for an eWarrant is a written version of a computer warrant and is taken to be the original warrant for a period of eight hours of being made unless executed. The making or cancellation of a written version does not affect the existence of the computer warrant (see s. 69A: 'Written version of computer warrant' of the JA).

Where a court requires a copy of the executed eWarrant, officers are to endorse the execution of the eWarrant in QPRIME (see QPRIME User Guide) and generate and print a QPRIME warrant report. Where a court from an interstate or overseas jurisdiction requires a paper warrant for the purposes of extradition, officers are to contact the Warrant Team, Police Information Centre (PIC) and request a paper warrant. The eWarrant will be returned to the court and a paper warrant will be issued and supplied to PIC for collection by the requesting officer (see eWarrant extradition page on the Service Intranet for further details).

The below table lists the type of warrants that may be issued as eWarrants.

Warrant Title	Form No.	Legislation
Warrant to apprehend defendant on application by surety for discharge from liability with respect to undertaking as to bail	Form 14	s. 23(3) of the BA
Warrant to apprehend defendant who has not appeared in accordance with undertaking	Form 15	s. 28 of the BA
Warrant to apprehend defendant for failure to surrender into custody	Form 16	s. 28A of the BA
Warrant for apprehension of defendant for failing to enter into undertaking or without fulfilling conditions as to bail before leaving precincts of court	Form 26	s. 27A of the BA
Warrant for apprehension of defendant for failing to enter into undertaking or without fulfilling conditions as to bail before leaving presence of police officer	Form 28	s. 27B of the BA
Warrant of apprehension of person released under section 11a	Form 25	s. 28C of the BA
Warrant to apprehend defendant for failure to appear	Form 34	s. 389 of the PPRA
Warrant to apprehend defendant who has not appeared on adjournment	Form 17	JA
Warrant to apprehend defendant charged with a simple offence or breach of duty where summons is disobeyed	Form 84	s. 142(1)(b) of the JA
Warrant to apprehend offender for failing to appear under conditions of recognisance	Form 5	s. 27(1)(d) of the PSA
Warrant to apprehend offender for failing to appear by direction or when called	Form 13	s. 40 of the PSA
Warrant to apprehend defendant for failure to appear	Form 74	s. 139(2) of the PSA
Warrant to apprehend offender under a drug and alcohol treatment order	Form 10	s. 151ZB of the PSA
Warrant to apprehend offender in the first instance or on failure to appear when notified by the court	Form 56	s. 182(3) of the PSA
Warrant to apprehend child where notice is disobeyed	Form 39(b)	s. 165(7A) of the <i>Youth Justice Act</i>
Warrant to apprehend child where summons is disobeyed	Form 39(a)	s. 238(5) of the <i>Youth Justice Act</i>
Warrant to apprehend respondent for failing to attend	Form DV19	ss. 39(2)(c) and 94(2)(c) of the <i>Domestic and Family Violence Protection Act</i>
Bench warrant	Form 20	Rule 28 of the Criminal Practice Rules

Paper warrant

A paper warrant is a hard copy written original warrant that is issued by a justice or another person under any Act.

A paper warrant can be executed using a:

- (i) copy of the paper warrant; or
- (ii) QPRIME warrant report.

A copy of a paper warrant must be certified and executed within eight hours of sending and receipt.

A certified copy of a paper warrant is only valid and admissible as proof of the warrant it purports to be if copy of a paper warrant is:

- (i) certified by the person sending it as a true and correct copy of the original warrant they have sighted; and
- (ii) certified by the person receiving the copy.

A court may require the original paper warrant to be produced.

Officers are to confirm as soon as reasonably practicable the status of a warrant, where a person is arrested by virtue of a warrant known to exist for the person, to ensure the warrant has not already been executed or satisfied. When a name is queried in QPRIME, a flag is displayed advising if a person is 'wanted on warrant'. Information entered in QPRIME is immediately available statewide.

13.18.2 Warrant types

Some of the more frequent types of warrants that members may be required to deal with are listed below.

Arrest warrant

An arrest warrant is issued by a justice for the arrest of a person for an offence on application by an officer under s. 371: 'Issue of arrest warrant' of the PPRA (see s. 13.18.9: 'Obtaining and activating arrest warrants' of this chapter).

PPRA fail to appear warrant

A PPRA fail to appear warrant is a warrant to apprehend defendant for failure to appear (Form 34) and may be issued by a magistrate when a person fails to appear in a magistrates court in accordance with a notice to appear issued by an officer under s. 389: 'Court may order immediate arrest of person who fails to appear' of the PPRA.

Bail Act warrant

A Bail Act warrant may be issued by a magistrate for a range of offences or circumstances under the *Bail Act*. Generally, these authorise the arrest of a person due to a breach of a condition of bail, such as failing to appear before the court in accordance with that bail.

Bench warrant

A Bench warrant (Form 20) authorises the arrest of the person to be placed before a court and is issued in accordance with rule 28: 'Application for bench warrant' of the Criminal Practice Rules.

Mesne warrants

A mesne warrant is a warrant to apprehend a defendant charged with a simple offence or breach of duty where summon is disobeyed (Form 84) issued by justices under s. 142(1)(b) of the JA and authorise the arrest the person to be placed before a court.

Warrant in the first instance

A warrant in the first instance is a warrant to apprehend a person charged with an indictable offence or a simple offence is issued pursuant to the PSA as a result of a person contravening a parole order.

Dangerous Prisoners (Sexual Offenders) Act warrants

An arrest warrant is issued under s. 20: 'Warrant for released prisoner suspected of contravening a supervision order or interim supervision order' of the *Dangerous Prisoners (Sexual Offenders) Act* (DP(SO)A) and authorises an officer or corrective services officer to arrest a released prisoner and bring them before the Supreme Court (see ss. 2.12.6: 'Continuing detention and supervision orders' and 2.12.7: 'Electronic monitoring of Dangerous Prisoners (Sexual Offenders)' of this Manual).

Warrants of apprehension and conveyance of prisoner to a Corrective Services facility

A warrant of apprehension and conveyance of prisoner to a corrective services facility is issued as a result of the suspension or cancellation of a conditional release order or a parole order (see s. 206: 'Warrant for prisoner's arrest' of the *Corrective Services Act*). The warrant authorises the arrest and conveyance of the person to the specified prison or to any other prison which is more accessible or convenient.

Remand warrant

A remand warrant is issued by a court enabling a prisoner to be taken from a magistrates court and held on remand in a correctional centre.

Warrants of commitment for trial or sentence

A warrant of commitment for trial or sentence is issued by a superior court for the purpose of bringing a person before that court to face trial or for sentencing.

Warrants of commitment where punishment is by imprisonment

A warrant of commitment where punishment is by imprisonment is issued by a court, under the JA rather than the PSA, on the conviction of a person in circumstances when the penalty is a period of imprisonment and the defendant has no option to pay a fine in lieu.

Warrants and orders for imprisonment

A warrant and orders for imprisonment is similar to a warrant of commitment where punishment is by imprisonment, except this type of warrant or order is issued under the PSA. A warrant or an order for imprisonment is issued by a court on the conviction of a person in circumstances when the penalty is a period of imprisonment and the defendant has no option to pay a fine in lieu.

Arrest and imprisonment warrants

An arrest and imprisonment warrant is issued under the provisions of s. 119: 'Enforcement by imprisonment' of the *State Penalties Enforcement Act* and authorises the arrest and imprisonment of the offender for the period stated in the warrant. The warrant stops having effect if the unpaid amount is paid before the offender is imprisoned. The period of imprisonment an offender must serve under the warrant is cumulative on any other period of imprisonment the offender must serve under any other warrant or an order of a court. An arrest and imprisonment warrant is issued as the result of:

- (i) a court-imposed penalty; or
- (ii) non-compliance of a penalty imposed for the non-payment of an infringement notice.

A person who is arrested by virtue of an arrest and imprisonment warrant does not appear before a court and is transported directly to a watch-house or correctional centre to serve the default period of imprisonment.

Warrants of commitment

A warrant of commitment can be issued under the:

- (i) PSA as the result of the non-payment of a penalty imposed by a Queensland court; or
- (ii) *Service and Execution of Process Act* (Cwlth) (SEPA) by a Queensland court after a person has been arrested pursuant to a warrant of apprehension and the outstanding amount remains unpaid after the expiration of further time to pay allowed by the Queensland court.

The warrant authorises an officer to demand full payment of the outstanding amount and to arrest the person if that amount is not forthcoming. A person who is arrested by virtue of a warrant of commitment does not appear before a court and is committed directly to a watch-house or correctional centre to serve the default period of imprisonment;

If it is ascertained the person named in a warrant issued under SEPA is no longer in Queensland, the officer is to request the QPRIME warrant task be reassigned to PIC who will make inquiries to the issuing authority and modify QPRIME accordingly.

Interstate warrants of commitment

Officers who become aware that a person located in Queensland is wanted by virtue of a warrant of commitment in another Australian jurisdiction should contact Brisbane Police Communication Centre to send a message to that jurisdiction requesting a warrant of apprehension be sought for execution in Queensland. This message should contain:

- (i) the subject person's full name, date of birth and current address;
- (ii) whether the subject person is an inmate of a correctional centre; and
- (iii) a request to forward the warrant of apprehension to the Manager, Police Information Centre (PIC).

Warrants of apprehension

A warrant of apprehension is issued by a court in one state for the arrest of a person in another state. Such a warrant is issued when a fine has been imposed on the person named in the warrant, and the person has failed to pay all or some of the fine. The SEPA empowers a court of summary jurisdiction in the state or territory in which the person is located to order the imposition of the original penalty.

Warrants of commitment issued forthwith

A warrant of commitment issued forthwith is issued by a court in relation to a defendant who has been convicted and ordered to pay a fine, but for which no time to pay has been allowed. The person is required to meet the fine immediately or is liable to be taken to a place of detention;

Additional warrant types

The following are additional warrant types members may be required to deal with:

- (i) Mental Health Act warrants (see s. 13.18.12: 'Mental Health Act warrants' of this chapter);
- (ii) warrants of execution (see s. 13.18.10: 'Warrants of execution' of this chapter);

- (iii) warrants of possession (see s. 13.18.11: 'Warrants of possession' of this chapter);
- (iv) Defence Force warrants (see s. 13.18.14: 'Defence Force warrants' of this chapter);
- (v) search warrants (see s. 2.8.3: 'Obtaining a search warrant'); of this Manual);
- (vi) coroners search warrants (see s. 8.4.27: 'Coroner's investigation Coroner's search warrants' of this Manual);
- (vii) high-risk missing person warrants (see s. 12.8: 'High-risk missing person warrants' of this Manual);
- (viii) surveillance device warrants (see s. 2.5.11: 'Use of listening devices and applications for surveillance device warrants' of this Manual);
- (ix) warrant for apprehension of child (see s. 7.4.4: 'Warrant for apprehension of a child under the Child Protection Act' of this Manual).

13.18.3 How a warrant may be finalised

The way a warrant is finalised will depend on the type of warrant. Where a warrant:

- (i) requires a named person to pay an outstanding amount of money the warrant can be either:
 - (a) satisfied by the persons paying the outstanding amount; or
 - (b) executed by being arrested and serving the default period of incarceration;
- (ii) orders the seizure of property it can be executed by seizing the property named;
- (iii) orders the arrest of a persons, it can be executed when the person named is arrested and delivered to the appointed place; or
- (iv) authorises an action, such as the search of a place, the warrant is executed when that action is performed.

13.18.4 Executing and satisfying warrants

Officers who locate a person they reasonably believe is the subject person of a warrant should take all reasonable steps to ensure the:

- (i) person is the person named in the warrant;
- (ii) warrant has not been previously satisfied or executed;
- (iii) warrant is not cancelled, expired or defective; before attempting to satisfy or execute the warrant;
- (iv) where the warrant requires the payment of money follow the relevant process in this chapter, namely:
 - (a) s. 13.18.5: 'Warrants requiring payment of money'; or
 - (b) 'Interstate warrants of commitment' of s. 13.18.2: 'Warrant types';
- (v) where the warrant orders incarceration either after a person has been given an opportunity to pay money or otherwise follow the process in s. 13.18.6: 'Warrants ordering incarceration' of this chapter; and
- (vi) where the warrant orders the persons appearance before a court follow the process in s. 13.18.7: 'Warrants ordering a person be brought before a court' of this chapter.

Endorsing an executed warrant

Officers who execute a warrant on a person need to endorse the warrant by:

- (i) following the warrant procedures outlined in the QPRIME User Guide;
 - (ii) if a hardcopy is required, printing the QPRIME warrant report showing the endorsement; or
 - (iii) if a paper warrant or a certified copy of a paper warrant and no QPRIME warrant entry exists, by signing the rear of warrant with:
 - (a) the day and time of execution;
 - (b) the name of the person on whom it was executed;
 - (c) if supplied – the name of the occupier of the place; and
 - (d) the name, rank, registered number, if any, and station of the officer,
- (see s. 638: 'Record of execution of warrant or order' of the PPRA).

Where more than one warrant relates to a person, officers are to ensure that each warrant is endorsed.

A copy of a paper warrant is to be executed and endorsed within eight hours of the copy being made. This is not applicable to Mental Health Act warrants or Defence Force warrants.

Satisfying a warrant

Members who receive payment for a warrant that satisfy it are to comply with the warrant procedures outlined in the QPRIME User Guide.

Unless officers are acting as a clerk of the court, or in another capacity to perform duties that are normally undertaken by officers from the DJAG, officers are not to accept monies that are tendered by persons for part payment of a warrant.

Where a person wanted on a warrant of commitment or an arrest and imprisonment warrant is arrested and transported to the nearest watch-house or correctional centre that will accept the prisoner, the watch-house manager may receive pro rata payment for the warrant (see the warrant procedures outlined in the QPRIME User Guide).

13.18.5 Warrants requiring payment of money

This section applies to all warrants requiring the payment of money issued by a Queensland court, including a warrant of commitment and warrant of apprehension issued under the *Service and Execution of Process Act* (Cwlth), but does not include the interstate warrant of commitment (see named section of s. 13.18.2: 'Warrant types' of this chapter).

Officers who locate a person with an outstanding warrant requiring the payment of money to satisfy the warrant are to:

- (i) advise the person of the outstanding amount, and that if the amount is not paid, the person may be arrested;
- (ii) give the person a reasonable opportunity to pay the outstanding amount, considering all the circumstances of the case, if the:
 - (a) named person pays the outstanding amount:
 - accept the money;
 - issue an official receipt to the person (see s. 4.6.2: 'Receipting Practice Statement' of the FMPM); and
 - satisfy the warrant as detailed in 'Satisfying a warrant' of s. 13.18.4: 'Executing and satisfying warrants' of this chapter; or
 - (b) outstanding amount is not reasonably forthcoming, arrest the person by virtue of the warrant and transport the person to the nearest:
 - watch-house or correctional centre and follow the procedure in the s. 13.18.6: 'Warrant ordering incarceration'; of this chapter; or
 - for a warrant of apprehension (see named section in s. 13.18.2: 'Warrant types' of this chapter) – watch-house and follow the procedure in s. 13.18.7: 'Warrants ordering a person be brought before a court' of this chapter; and
- (iii) if the person maintains that payment for the warrant has been made, the warrant should not be executed unless the officer is satisfied that the relevant fine remains unpaid. In circumstances where it is not possible to determine whether the warrant has been satisfied, the warrant should not be executed.

13.18.6 Warrants ordering incarceration

Officers executing a warrant for the arrest and incarceration of a person that does not require the persons to appear initially before the court, are to:

- (i) where the warrant orders taking a person:
 - (a) to a corrective services facility such with a warrant of apprehension and conveyance of prisoner to a corrective services facility is to take the person to:
 - the prison specified in the warrant;
 - any other prison which is more accessible or convenient; or
 - if no prison is accessible or convenient, the nearest watch-house; or
 - (b) into custody:
 - such as a:
 - warrant and order for imprisonment;
 - remand warrant;
 - warrant of commitment for trial or sentence;
 - warrant of commitment where punishment is by imprisonment; or
 - where the person was given a reasonable opportunity to satisfy the warrant but was arrested as they were unable to, such as a:

- arrest and imprisonment warrant;
- warrant of commitment issued under the *Penalties and Sentences Act*; or
- warrant of commitment issued forthwith,

is to transport the prisoner to the nearest watch-house or correctional centre which will accept the prisoner;

(ii) if deemed appropriate (see s. 10.4.15: 'Transfer of and taking charge of persons in custody' of this Manual), complete a QPS Prisoner Property Sheet and, where the prisoner is lodged at a:

(a) watch-house – deliver the original and a copy of the form, if completed, to the watch-house manager; or

(b) correctional centre – obtain a receipt for the prisoner and prisoner's property on the original of the form and deliver a copy of the form to the senior correctional officer. The signed original Queensland Police Service Prisoner Property Sheet is to be retained at the arresting officer's station or establishment;

(iii) endorse the warrant (see s. 13.18.4: 'Executing and satisfying warrants' of this chapter);

(iv) deliver the warrant or order to the watch-house manager or senior correctional officer; and

(v) complete the schedule and return it immediately to the issuing authority.

13.18.7 Warrants ordering a person be brought before a court

A warrant that orders a person be brought before a court, includes a:

(i) Bail Act warrant;

(ii) mesne warrant;

(iii) bench warrant;

(iv) arrest warrant;

(v) PPRA fail to appear warrant;

(vi) warrant in the first instance;

(vii) warrant of apprehension – where the person is unable to pay the outstanding money and the procedure in s. 13.18.5: 'Warrants requiring payment of money' of this chapter has been followed; and

(viii) Dangerous Prisoners (Sexual Offenders) Act warrants.

An officer who locates a person wanted on a warrant that orders a person be brought before a court should:

(i) arrest the person by virtue of the warrant;

(ii) take the person to a watch-house;

(iii) endorse the warrant (see 'Endorsing an executed warrant' of s. 13.18.4: 'Executing and satisfying warrants' of this chapter);

(iv) for a PPRA fail to appear warrant complete a QP 0666: 'Notice of execution of Police Powers and Responsibilities Act fail to appear warrant';

(v) for other warrants:

(a) complete a bench charge sheet with the wording relevant for the warrant as indicated below:

- a Bail Act warrant for a breach of bail conditions – for the offence of breaching a condition of bail;
- other Bail Act warrants – indicate the person was arrested by virtue of a Bail Act warrant, including the date and place of issue of the warrant;
- a mesne warrant – indicate the person has been arrested by virtue of a mesne warrant, including the date and place of issue of the warrant;
- a bench warrant – indicate the person has been arrested by virtue of a bench warrant, including the date and place of issue of the warrant;
- an arrest warrant – the wording of the charge will be the wording taken from the warrant;
- a warrant in the first instance – the wording of the charge will be the wording taken from the warrant;
- a warrant of apprehension – the wording of the charge will be the wording taken from the warrant; or
- a Dangerous Prisoners (Sexual Offenders) Act warrant – the wording of the charge to be taken from the warrant; and

(b) complete a Court Brief (QP9) and outline in the narrative:

- the circumstances under which the defendant was located;
- information which proves the identity of the defendant, such as an admission by the person;
- if relevant, the circumstances surrounding the issue of the warrant, including details of the non-appearance by the defendant which led to the issue of the warrant; and
- any other relevant information; and

(c) ensure all documentation required in accordance with s. 3.7.2: 'Documentation at first appearance' of this Manual is available for production,

(vi) for a PPRA, Bail Act and mesne warrant obtain a copy of the bench charge sheet and Court Brief (QP9) for any original substantive offence marked 'COPY' (available from QPRIME or the Police Information Centre for pre-QPRIME matters); and

(vii) attach the warrant to the other documents detailed above for:

(a) a Dangerous Prisoners (Sexual Offenders) Act warrant – the relevant Office of the Director of Public Prosecutions (State) to tender to the Supreme Court; or

(b) the prosecutor to tender to the relevant court.

13.18.8 Management of warrants

Warrants received by the Police Information Centre (PIC) from DJAG or other issuing authorities are recorded in QPRIME and assigned to a QPRIME Organisational Unit Active Task List. The OIC of the relevant organisational unit should then assign the warrant to an officer for execution or satisfaction.

Not all warrants are sent to PIC from issuing authorities. Warrants sent directly to stations are:

- (i) warrants of possession; and
- (ii) warrants of execution for companies.

Warrant satisfied or executed in error

An officer who becomes aware, after satisfying or executing a warrant, that:

- (i) the warrant had previously been lawfully satisfied or executed;
- (ii) the person was not the person named in the warrant from whom the officer:
 - (a) seized goods or chattels from;
 - (b) received payment from; or
 - (c) arrested or otherwise took into custody
- (iii) the warrant was expired at the time it was satisfied or executed;
- (iv) in the case of a written version of a computer warrant, the warrant was cancelled; or
- (v) the warrant was otherwise defective at the time it was satisfied or executed,

should:

- (i) immediately rectify the action taken under the warrant by:
 - (a) ensuring the release of the person from custody; or
 - (b) return of any goods or chattels seized or payment received; and
- (ii) for a cancelled warrant or a warrant satisfied by or executed on the wrong person, where the QPRIME warrant status has been modified to executed update it to not finalised (see the QPRIME User Guide);
- (iii) for a warrant that is expired, invalid or incomplete:
 - (a) send a task to org unit [1226] at PIC;
 - containing sufficient identifying details of the warrant; and
 - outlining the nature of the defect or advice that the warrant is expired; and
 - (b) if the original written warrant is in the officer's possession, return the warrant to the issuing court or justice with an attached letter outlining the reason(s) for the return; or
- (iv) for a warrant that has previously been satisfied or executed, send a task to org unit [1226] at PIC:
 - (a) containing sufficient identifying details of the warrant; and

(b) include all relevant information regarding the previous satisfaction or execution of the warrant.

Where the status of the task is still 'outstanding', the task is still active. In this instance, submit a task to org unit [1226] at PIC seeking that the execution status be reversed. Officers are to follow the processes recommended in 'Update an executed warrant to not finalised status' of the QPRIME User Guide. Officers are to complete the remarks section on a 'warrant not actioned' task.

Lost paper warrants

Where it is determined that a paper warrant has been lost and cannot be located:

- (i) the OIC of the station; or
- (ii) the responsible team leader, PIC,

where the warrant was last received is to make comprehensive inquiries as to the circumstances surrounding the loss of the warrant. Where the warrant is still not located, the relevant person above is to:

- (i) cause a report to be prepared advising of the loss of the warrant, and the circumstances surrounding its loss and forward that report to the issuing authority; and
- (ii) cause a notice to be placed in the Police Gazette (for assistance contact the responsible team leader, PIC).

Incorrect or incomplete details on warrants

Officer who find the money, default period or other details of any warrant in QPRIME is incorrect or incomplete are to:

- (i) immediately advise the PIC of the defect; and
- (ii) not execute or satisfy the warrant until advised that QPRIME has been corrected.

Responsibilities of the Manager, Police Information Centre

The Manager, PIC is to ensure:

- (i) paper warrants received from issuing authorities are entered into QPRIME and tasked to a station or establishment;
- (ii) personal details, address details, offence details, money or default period details and other details of paper warrants are recorded and flagged against the person in QPRIME;
- (iii) when a request for a paper warrant is made that it is certified in accordance with the *Justices Act* and transmitted to the requester as soon as practicable;
- (iv) when advised that errors or omissions in warrants stored in QPRIME, that:
 - (a) the QPRIME record is immediately modified to 'returned to issuing authority'; and
 - (b) a report detailing the error is sent with the paper warrant to the issuing authority;
- (v) when QPRIME is unavailable and an e-mail is received advising:
 - (a) a person has been arrested on a warrant that:
 - the status of the warrant in QPRIME is monitored; and
 - when QPRIME becomes available, the status of the warrant is monitored until the warrant status is modified to executed by the officer; and
 - (b) a warrant has been satisfied, that the status of the warrant in QPRIME is modified to satisfied by the officer when QPRIME becomes available;
- (vi) when a QPRIME request is made for a certified copy of a paper warrant, that the status of the warrant in QPRIME is monitored until the warrant status is modified to executed by the officer;
- (vii) when a certified copy of a paper warrant is requested and sent QPRIME is modified appropriately; and
- (viii) when a warrant stored at PIC is executed or satisfied and a status change report is completed, that the warrant and any report is returned to the issuing authority unless a court requires the original warrant to be produced.

When the Manager, PIC receives:

- (i) a request from an interstate officer for a copy of a:
 - (a) bench or Bail Act warrant they are to advise the OIC of the station where the original arresting officer is attached to arrange for extradition;
 - (b) warrant of apprehension and conveyance of a prisoner to prison they are to advise the interstate officer to contact the Corrective Services Investigation Unit for a copy of the warrant;

(ii) advice from an OIC of a station or an officer that the extradition of a person named in a warrant is approved they are to ensure that a copy of the warrant is sent to the officer who has carriage of the matter.

Responsibilities of watch-house managers

Watch-house managers may receive pro rata payments that are made by persons on warrants which are recorded in QPRIME. A warrant must be executed prior to a pro rata payment being made. All payments that are made must be recorded in QPRIME. To calculate pro rata payment, watch-house managers should access 'Calculate Pro Rata Payment' of the QPRIME User Guide. When a pro rata payment is made and the amount outstanding is calculated, watch-house managers should complete a Money Collected Report for Warrants in QPRIME utilising the 'Warrant Money Collected Report' of the QPRIME User Guide.

13.18.9 Obtaining and activating arrest warrants

An arrest warrant is a warrant issued by a justice for the arrest of a person for an offence and is activated by the reporting officer after it has been signed by a justice of the peace. An officer who intends to record and generate an arrest warrant should follow the procedure outlined in 'Record and generate arrest warrant' and 'Update arrest warrant authorisation details' of the QPRIME User Guide.

Activated warrant

Where an officer obtains an arrest warrant and it is not executed within 48 hours of its activation the:

(i) officer is to:

- (a) add a flag 'Wanted on warrant' against the person wanted on the warrant in QPRIME; and
- (b) submit the warrant and Court Brief (QP9) to a shift supervisor or brief checker; and

(ii) the shift supervisor or brief checks is to:

- (a) check the Court Brief (QP9) in accordance with s. 3.7.5: 'Checking of Court Briefs (QP9)' of this Manual;
- (b) assign a general task in QPRIME to the org unit [1226], Police Information Centre (PIC) and forward the warrant and QP9 via mail following the procedure outlined in 'Forward warrant to Offender Management' of the QPRIME User Guide.

A full brief of evidence should be completed, brief checked and forwarded to the Manager, PIC, within one month of the date of activation, unless the warrant is sooner executed.

Warrant form not activated

When the need to activate an arrest warrant no longer exists the reporting officer is to:

- (i) follow the procedure outlined in 'Forward warrant to Offender Management' of the QPRIME User Guide with a notation of the reason for non-activation of the warrant; and
- (ii) send a task to org unit [1226] at PIC advising that the warrant is to be cancelled, providing reasons for cancellation.

Where a warrant entry has not been activated after a one-month period commencing from the warrant entry date, PIC may cancel the inactivated warrant entry in QPRIME. However, prior to cancellation, PIC is to advise the reporting officer and their OIC that this will be done unless the warrant is activated within a 48-hour period.

Where a warrant entry has been cancelled by PIC and the officer requires the warrant entry to exist, the officer is to recommence the warrant entry procedure in QPRIME.

13.18.10 Warrants of execution

Warrants of execution are issued by justices for the enforcement of decisions requiring payment of a penalty or compensation or sum of money or costs. Generally, when specific legislation empowers the issue of this type of warrant, the provisions of that legislation should be followed.

Warrants of execution (for individuals) are forwarded to the Police Information Centre (PIC) by the issuing authority where a flag is entered against the person details in QPRIME.

Warrants of execution (for companies) are forwarded to the Manager, PIC and entered into QPRIME.

Officers receiving warrants of execution (for companies) who are advised the company is under administration should make inquiries with the Australian Securities and Investments Commission (ASIC) regarding Notice of Appointment of Administrator under s. 450A: 'Appointment of administrator' of the *Corporations Act* (Cwlth) to confirm this is so. If the company has been placed under administration, the administrator must lodge a notice of this fact with the ASIC. The provisions of s. 440F: 'Suspension of enforcement process' of the *Corporations Act* (Cwlth) prevent proceeding with the enforcement processes (which includes a warrant of execution) except with leave of the court or on terms imposed by the court. A court referred to in this instance is a federal, supreme or family court.

Officers are not 'court officers' within the meaning of s. 440G: 'Duties of court officer in relation to property of company' of the *Corporations Act* (Cwlth).

Executing warrants of execution

Strict compliance with s. 172: 'Procedure on execution' of the *Justices Act (JA)* is required when a warrant of execution is executed. All property seized is to be the sole property of the person/company named in the warrant and be unencumbered. Officers may only execute a warrant of execution specifically directed to police officers.

Section 172(a) of the JA requires the seizure of goods and chattels under a warrant of execution be by or under the direction of an officer. A list of all property seized should be recorded in accordance with s. 4.2: 'Receiving property' of this Manual and the property seized stored in accordance with Chapter 4: 'Property' of this Manual.

Where it is confirmed a company is under administration and a notice has been lodged with the ASIC, officers should not execute or assist in the execution or warrants on that company. The issuing authority is to be advised the company is under administration and where appropriate, return the warrant to the issuing authority. Where the issuing authority issues further written directions to execute the warrant, the warrant is to be executed.

On execution or satisfaction officers are to ensure the warrant is executed or satisfied in accordance with s. 13.18.4: 'Executing and satisfying warrants' of this chapter.

Responsibilities regarding public auction

The officer executing the warrant should refer to ss. 4.6.18: 'Public auction procedures', 4.6.19: 'Sale by tender' and 'Responsibilities of reporting officer' in 4.6.1: 'General requirements of disposal' of this Manual.

Inquiries concerning disposal of property, including costs of transport and storage, should be made prior to the execution of the warrant by the officer intending to execute the warrant. Officers should assess whether the sale of the property to be seized will recover less than the cost of transport, storage, auctioneers' fees and any other expenses. If it appears unlikely that sufficient monies will be recovered to cover the costs, officers should complete the appropriate certification on the rear of the warrant and return it to the issuing authority unexecuted.

Where the warrant results from a judgement debt, the officer intending to execute the warrant should not do so until the plaintiff has paid \$600 into the station's Collections Account to cover the costs of the process.

13.18.11 Warrants of possession

A warrant of possession is a warrant issued under s. 350: 'Issue of warrant of possession' of the *Residential Tenancies and Rooming Accommodation Act (RTRAA)* which allows the lessor of rented premises to regain possession of those premises. These warrants are issued by a tribunal after an application has been made, other than by a tenant, for a termination order. Warrants of possession are paper warrants forwarded directly from the issuing authority to the local station and are not recorded in QPRIME by the Police Information Centre. The OIC of the receiving station is to ensure these warrants are recorded in QPRIME as 'Warrants of Possession [1695]'.

Warrants of possession specify a range of days on which the warrant may be executed. Officers should carefully read any warrant of possession detailed to them and take note of this and other conditions of execution.

The eviction of a person from their place of residence, even though they may be occupying the residence unlawfully, is always an emotive event and has the potential for attracting adverse criticism of the Service. Every effort should be made to persuade the tenants to vacate the premises voluntarily. Where this cooperation is not forthcoming it is important that the execution of the warrant takes place on the day and at the approximate time arranged. Where circumstances are such that it is not possible to execute the warrant on the arranged date, the tenants and the lessor or the lessor's agent should be informed of any change.

Officers required to execute a warrant of possession should, after carefully reading the warrant:

- (i) contact the registrar who issued the warrant and establish that an 'Order of Tribunal' notice has been given to the tenant or tenants as provided for by s. 351(2): 'Warrant of possession' of the RTRAA;
- (ii) attend at the premises named in the warrant with a QP 0777: 'Notice to Tenants/Occupants';
- (iii) where the tenants are present officers should:
 - (a) advise them that a warrant of possession has been issued and attempt to gain their cooperation in voluntarily vacating the premises;
 - (b) complete in duplicate the QP0777 including the time and date agreed to in cooperation with the tenants or if agreement cannot be reached, allowing reasonable time for the tenants to vacate that premises; and
 - (c) provide the tenants with a completed QP 0777;
- (iv) where the tenants cannot be contacted at the premises officers should complete the QP 0777: 'Notice to Tenants/Occupants' and place it at the premises in a conspicuous location. Officers should allow a reasonable time for the tenants to vacate the premises;
- (v) endorse the QP 0777 as to service and, where the notice was left at the premises, identify the place where it was left; and

(vi) contact the person in whose favour the termination order was made (lessor or the lessor's agent) and advise that the warrant has been received, that it is to be executed at the time and date indicated to the tenants and that they need to attend at that time.

At the time and date indicated on the QP 0777 officers who are to execute the warrant of possession should:

- (i) ensure that a QP 0777 has been provided to the tenants or left at the premises;
- (ii) ascertain that the lessor or the lessor's agent is able to attend (where the lessor or the lessor's agent is unable to attend, the warrant should not be executed and where appropriate, further suitable arrangements should be made);
- (iii) attend at the premises and execute the warrant. Where the tenants are present:
 - (a) explain to the tenants that unless they remove themselves and their property forthwith, reasonable force will be used to execute the warrant; and
 - (b) where the tenants begin to remove their property from the premises, allow them reasonable time to do so, and remain at the scene until the premises have been vacated; and
- (iv) execute the warrant where the tenants:
 - (a) are absent;
 - (b) fail to take immediate action to remove themselves and their property from the premises;
 - (c) remove themselves from the premises but refuse to remove their property; or
 - (d) after commencing to remove themselves or their property from the premises discontinue doing so.

When executing the warrant of possession officers should:

- (i) enter the premises using reasonable help and force;
- (ii) remove the tenants from the premises (if required) using reasonable help and force;
- (iii) exercise any powers as provided for in the warrant;
- (iv) give possession of the premises to the lessor or the lessor's agent;
- (v) allow the lessor or the lessor's agent to remove all property belonging to the tenants from the premises;
- (vi) endorse the warrant in accordance with s. 638: 'Record of execution of warrant or order' of the PPRA, furnish a report as to the circumstances surrounding the execution of the warrant and forward the endorsed warrant, the copy of the QP 0777 and the report through the officer in charge to the issuing authority; and
- (vii) execute the warrant in QPRIME in accordance with the QPRIME User Guide. The QP 0777: 'Notice to Tenants/Occupants' can be added as an attachment to the relevant QPRIME Occurrence.

Whenever a warrant of possession is received at a station and detailed to an officer to execute, by virtue of the warrant, police should attend even in circumstances where the tenants have previously vacated the premises. Officers should then give possession of the premises to the lessor or the lessor's agent and endorse the warrant accordingly.

13.18.12 Mental Health Act warrants

Warrants may be issued pursuant to ss. 378: 'Issue of warrant', and 764: 'Punishment of contempt' of the *Mental Health Act* (MHA) and 157R: 'Issue of warrant' of the *Public Health Act* (PHA).

A warrant may be issued under s. 764 of the MHA if a person is in contempt of the Mental Health Review Tribunal. A warrant under s. 764 of the MHA requires an officer to arrest a person and bring them before the court to be dealt with according to law.

An officer does not need a warrant issued under ss. 378 of the MHA or 157R of the PHA to enter a place they reasonably suspect the person is at, to detain them under a provision of the MHA or PHA, as they have the power of entry under s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA.

The 'Authority to return patient to authorised mental health service' is not strictly a warrant but a notice that authority exists in respect of a particular patient. However, for the purposes of this section, the form 'Authority to return patient to authorised mental health service' is treated as a warrant.

A Mental Health Act warrant is forwarded by the issuing authority to the Manager, Police Information Centre (PIC) and the local station OIC and police communications centre. On receipt, PIC will enter the 'Authority to Return' into QPRIME and create a BOLO.

In circumstances where a MHA warrant is received after hours, PIC counter staff will enter a BOLO into QPRIME, together with any relevant caution. The warrant team, PIC will be responsible for entry of such information during core business hours.

An officer detailed a 'Warrant for apprehension of patient' by their OIC is to:

- (i) contact a health practitioner to make arrangements to execute the warrant;
- (ii) assist the health practitioner by executing the warrant and using the officer's powers under the warrant;
- (iii) execute the warrant in QPRIME in accordance with the procedure outlined in 'Execute paper warrants' of the QPRIME User Guide; and
- (iv) endorse the warrant, complete a report and forward it direct to the issuing authority.

For further information see s. 6.6: 'Mentally ill persons' of this Manual.

Unexecuted Mental Health Act warrants

When an MHA warrant that has been entered into QPRIME is not executed because the time for execution has expired, QPRIME expires the BOLO automatically and tasks warrant to the PIC.

When an unexecuted MHA warrant task is assigned to the station Organisational Unit Active Task List and the person named in the warrant may be located in another division, the OIC should reassign the warrant task to the appropriate station.

Where the time for executing the warrant has not expired and the person named in the warrant cannot be located, the warrant shall remain in existence until the person is located.

13.18.13 Assistance to the DJAG in the execution of civil enforcement warrants

Civil enforcement warrants are issued by the Supreme, district and magistrates courts under Chapters 19 and 20 of the Uniform Civil Procedure Rules (UCPR) and they direct an enforcement officer to:

- (i) arrest and/or detain a person to have them brought before a court;
- (ii) seize and sell any property of a person to satisfy the monetary order of the court; or
- (iii) recover possession of a persons' house and land to satisfy a non-monetary order of the court.

Enforcement officers for the Supreme and district courts are bailiffs and officers of the court, whereas for the magistrate court they are civilians employed by DJAG and are not court officers.

The types of warrants the courts may issue under the UCPR are:

- (i) enforcement hearing warrant under r. 816;
- (ii) enforcement warrants for seizure and sale of property under r. 828;
- (iii) enforcement warrant for possession under r. 913;
- (iv) enforcement warrant for seizure and delivery of goods under r. 916;
- (v) enforcement warrant for seizure and detention of property under Chapter 20, Part 6;
- (vi) warrant (for arrest pending hearing for contempt) under r. 929; and
- (vii) warrant for the defendant's arrest under r. 935.

An enforcement officer may request police assistance in the execution of the enforcement warrant, and the police officer is required to provide reasonable help unless impractical. Additionally, the enforcement officer may deliver the arrested person to the OIC of the watch-house, who must receive and keep the arrested person until otherwise advised (see r. 816 of the UCPR).

The same provisions apply to the request and provision of assistance by a police officer to the enforcement officer in the execution of the warrant for the arrest of a person pending a hearing for contempt (see r. 929 of the UCPR).

The enforcement officer may also request police assistance if at any time during the course of executing the warrant, the enforcement officer believes their safety may be at risk.

The Service and DJAG has a Memorandum of Understanding (MOU) to formalise the process of officers providing assistance to DJAG enforcement officers, and where possible, eliminate the need for un-planned assistance except in emergency situations.

The majority of warrants are executed on Saturdays to enable the person named in the warrant to be located at the address. DJAG will meet with the local OIC of the division where the person in the warrant resides, at least 3 days prior to the execution of the warrant, to arrange police attendance on the day and time negotiated for the warrant's execution.

Officer attendance is subject to operational priorities, and if officers are unable to attend, or are called away for other urgent matters, DJAG will either continue with the execution of the warrant or leave and return following further negotiations with the OIC.

If relevant checks with Police Information Centre do not identify adverse QPRIME holdings, and DJAG execute the warrant without police assistance, they may require assistance in the following circumstances:

- (i) assaults or threats of violence upon the civil enforcement officer;

- (ii) locating illicit drugs at the premises during the course of executing the warrant; or
- (iii) locating unsecured firearms at the premises during the execution of the warrant.

The DJAG has instructed their enforcement officers in such incidents, wherever possible, to remove the person from the address and secure the scene, pending police arrival to investigate the matter.

13.18.14 Defence Force warrants

Warrants for the arrest of members of the Australian Defence Force (ADF), are normally issued after that member has been absent without leave from their place of duty for a period of seven days and are issued by authority of the *Defence Force Discipline Act* (Cwlth) (DFDA). Section 90(5): 'Arrest under warrant' of the DFDA empowers officers to arrest such absconders.

Where the Police Information Centre (PIC) is forwarded a copy of Defence Force warrant for an ADF person wanted for absconding, the PIC will enter the person's name and a flag against the person details in QPRIME.

The arrest of ADF member on a Defence Force warrant should be affected by an ADF authority, but this may not be possible. Members of military police branches do not have authority to take action at private residences.

Where officers become aware a person is wanted on a warrant issued by the ADF and circumstances dictate officers should effect the arrest of a person, officers should:

- (i) confirm the existence of the warrant by obtaining either the wording of the warrant or the warrant itself;
- (ii) execute the warrant and take the person to a watch-house. In executing the warrant officers should be mindful of the limitations of execution between 2100 hours and 0600 hours as prescribed in s. 91(3): 'Power to enter to make arrest' of the DFDA;
- (iii) provide the watch-house manager with the wording of the warrant, or the warrant itself as the case may be, as well as full details of the person as far as known;
- (iv) advise the local Joint Military Police Station by phone on 131167 (1311MP); and
- (v) follow the procedures outlined in s. 13.18.4: 'Executing and satisfying warrants' of this chapter.

It is not necessary to complete either a bench charge sheet or Court Brief (QP9).

The OIC of a watch-house to which a member of the ADF is brought by virtue of a Defence Force warrant should:

- (i) accept the prisoner in accordance with Chapter 16: 'Custody' of this Manual;
- (ii) process and hold the prisoner in the normal manner, with the exception that photographs and fingerprints are not to be taken;
- (iii) on arrival of the relevant ADF personnel, have them digitally sign the Release of Custody Report (Full) in QPRIME to the effect that custody of the prisoner has passed to the ADF authority; and
- (iv) release the prisoner to the custody of the member of the ADF, or into the custody of a police officer who has been detailed to escort the prisoner to another location.

On occasions, representatives of the ADF authority will be unable to send a representative to the particular watch-house to take custody of the prisoner. In this instance the ADF authority may request the Service transport the prisoner to a specific ADF establishment.

Where a member of the ADF has been arrested by virtue of a Defence Force warrant and a request has been received from the relevant ADF authority to transport the prisoner to a location other than the nearest watch-house, officers are to refer that request by the most expedient means available, to their district officer or commissioned OIC.

Where a defence force absconder is a member of a defence force other than the ADF, officers should refer to s. 11.15.4: 'Unlawful non-citizens' of this Manual.

District officers or commissioned OICs who have been notified of a request to transport a prisoner in accordance with the preceding order are to:

- (i) communicate directly with the ADF officer making the request; and
- (ii) advise the ADF officer any transport undertaken by the Service will only be made at the expense of the relevant branch of the ADF.

Where an ADF officer accepts this condition, district officers or commissioned OIC are to make arrangements to transport the prisoner to the destination nominated. District officers or commissioned OIC are to provide a written direction to officers undertaking the escort, which is to include any travel arrangements made.

After an escort has been provided, district officers or commissioned OIC are to cause an itemised account of the costs of the escort to be prepared and forwarded to the ADF authority concerned, in accordance with the Financial Management Practice Manual.

Officers who are detailed to escort a prisoner held by virtue of a military warrant are to:

- (i) attend at the watch-house at which the prisoner is held and prepare a QPS Person Report (Custody);
- (ii) ensure the prisoners property is collected and signed out of QPRIME;
- (iii) take custody by signing the release tab of the Custody Report (Full) in QPRIME;
- (iv) ensure the prisoner is recorded as being in transit to the military establishment;
- (v) print duplicate copies of the QPS Person Report (Custody) and retain until arrival at the military establishment;
- (vi) transport the prisoner in accordance with the written direction of the district officer or commissioned OIC;
- (vii) on arrival at a military establishment, escorting officers are to relinquish custody of the prisoner to the relevant duty officer by having the relevant duty officer sign the original of the QPS Person Report (Custody);
- (viii) provide the duty officer with the duplicate copy of the QPS Person Report (Custody) and ensure the signed original is returned to the watch-house to be included with the relevant entry; and
- (ix) ensure the Custody Report (Full) is finalised when returning to the watch-house so that the 'Release time' field can be completed using the time the prisoner was handed over to the military establishment.

13.18.15 Execution of warrant on corrective service prisoner

A warrant does not generally provide police with an authority to remove a person from a correctional facility in order to execute the warrant. Warrants do not specify a time and place where the prisoner is to be produced and therefore do not fall within the definition of either an 'attendance authority' as defined in the *Corrective Services Act* or 'court order' as defined in the *Justices Act*.

Police are not to remove a person from a correctional facility to execute a warrant unless:

- (i) the information contained on a warrant specifies a time and place where the prisoner is to be produced; or
- (ii) there is an authority, signed by a court, authorising the removal of a person from a correctional facility.

Appearance via notice from a court

The attendance of a corrective facility prisoner in a court for the purpose of the execution of a warrant can be facilitated by a notice from a court to the Chief Executive (Corrective Services). The notice must include the time, place and that the prisoner is required in the court for a particular matter e.g. for the execution of mesne warrant (see s. 69: 'Transfer to court' of the *Corrective Services Act*).

Appearance via video-link

Alternatively, where facilities exist, warrants can be finalised for corrective facility prisoners via the use of video-link. Executing the warrant via video-link removes unnecessary transport of the prisoner and improves efficiency.

District officers are to ensure local standard operating procedures are developed, and that agreement is made between the relevant magistrates court, police prosecutions corps and corrective service facility, to best facilitate the execution of warrants on prisoners via video-link, for their area of responsibility.

13.18.16 Assistance to the State Penalties Enforcement Registry for money lawfully in the possession of the Service

The State Penalties Enforcement Registry (SPER) has, as part of its functions, the requirement to:

- (i) collect amounts payable to SPER; and
- (ii) take enforcement action to collect amounts owed.

The *State Penalties Enforcement Act* (SPE Act) provides authority for information sharing between SPER and the Service.

Money lawfully in the possession of the Service

Officers should contact SPER when an amount of money of \$500 or more:

- (i) has been lawfully seized from an adult as evidence of an offence; or
- (ii) is in the lawful possession of the Service e.g. property of a prisoner in a watch-house.

The officer responsible for the lawful seizure or possession of money should contact SPER by phone during business hours (see SMCD) to advise of the amount and the details of the person from whom the money was obtained. Possession includes amounts transferred to a Service electronic account.

ORDER

Money is:

- (i) not to be seized for the sole purpose of SPER enforcement; and
- (ii) is to be in the lawful possession of the Service before SPER is contacted.

SPER interest in enforcement debtor money in the possession of the Service

SPER will immediately advise the responsible officer by email if a person is an enforcement debtor and will request the responsible officer to complete a QPS Cash Seizure Advice Form available on the SPER website and email the completed form to the SPER business account (see SMCD).

SPER will reply with written notification to the responsible officer and the officer's OIC business email account advising of SPER's interest in the money and the amount sought.

An officer who receives written notification from SPER is to upload the SPER notification to the QPRIME occurrence and complete a supplementary report.

For money seized as part of an investigation, SPER will:

- (i) liaise with the responsible officer to determine when the Service no longer has a lawful interest in the money; and
- (ii) determine when an Enforcement Warrant to Seize and Sell Property (enforcement warrant) is to be executed.

ORDER

Officers are not to delay the return of money to allow SPER time to prepare and serve an enforcement warrant.

SPER enforcement warrant

Once SPER has identified the Service is to return money to an owner, SPER will prepare:

- (i) a Notice to Person in Possession of Property under s. 73A: 'Notice to enforcement debtor etc. if seizure' of the SPE Act; and
- (ii) an enforcement warrant.

In most cases SPER will execute these documents on the Service electronically to the responsible officer and the officer's OIC by email. SPER will contact the responsible officer by telephone and serve a copy of the enforcement warrant on the SPER debtor.

ORDER

Money held by the Service is only to be released to SPER under the following circumstances:

- (i) when a Notice to Person in Possession of Property and an enforcement warrant, in the name of the owner or person whom money was seized, has been electronically or physically served; and
- (ii) in the case of money lawfully seized during an investigation, when the money is to be returned once:
 - (a) a decision is made that proceedings or proceeds of crime action will not be commenced; or
 - (b) court proceedings have been finalised, including the appeal period.

Procedures for money held in a Service electronic financial account

When a responsible officer has received a copy of the enforcement warrant and notice to enforcement debtor from SPER, the officer is to:

- (i) upload the enforcement warrant and notice to enforcement debtor to the QPRIME occurrence with a supplementary report; and
- (ii) send a QPRIME task to their OIC advising:
 - (a) of the service of the enforcement warrant and notice to enforcement debtor;
 - (b) that the Service no longer has lawful authority to retain the money; and
 - (c) request authority to release the stated amount mentioned in the warrant to SPER.

Once an officer has received OIC approval to release money to SPER, the officer is to:

- (i) send an email to Finance Services (see SMCD) authorising the release to SPER of the amount mentioned in the warrant; and
- (ii) include a copy of the warrant and notice to enforcement debtor in the email.

PSBA Finance Services, upon receiving release authority from the responsible officer, will:

- (i) send release authority to Queensland Shared Services (QSS) to electronically transfer the amount ordered in the enforcement warrant to the designated SPER account using the remittance details contained in the enforcement certificate, available on the SPER website; and
- (ii) once confirmation is received from QSS that the money has been transferred, Finance Services is to forward a copy of that advice to the responsible officer.

Procedures for money held as cash as part of prisoner's property

In most situations, money in the possession of a prisoner will be kept with the prisoner's property at the relevant watch-house.

When a responsible watch-house officer has received a copy of the enforcement warrant and notice to enforcement debtor from SPER, electronically or in person, the officer is to:

- (i) upload the enforcement warrant and notice to enforcement debtor to the QPRIME occurrence the person is in custody for and submit a supplementary report;
- (ii) advise the prisoner of SPER actions, show the copy of the enforcement warrant to the prisoner and ensure the copy is lodged in the prisoner's property;
- (iii) remove the amount stated in the enforcement warrant from the prisoner's property; and
- (iv) facilitate the banking of the money through the relevant station accounts and comply with the 'Procedures for money held in a Service electronic financial account' of this section.

Where a watch-house does not have the facilities and resources to electronically bank monies due to the location of the watch-house from a station (generally within the Brisbane metropolitan area) officers are to advise SPER and seek SPER attendance for the physical transfer of the money. In such instances officers are to:

- (i) obtain an indemnity receipt for the amount seized by SPER; and
- (ii) complete the enforcement certificate and hand to the SPER officer.

Before handing the completed enforcement certificate to the SPER officer, the responsible watch-house officer is to upload the enforcement certificate and the indemnity receipt to the documents tab for the linked occurrence for which the prisoner is in custody.

ORDER

Frontline policing response, watch-house security and prisoner to staff numbers are not to be compromised to facilitate SPER cash seizures.

Procedures once money is electronically remitted to SPER

Upon receiving notification from QPS Finance Services that the amount has been electronically transferred to SPER, the responsible officer is to:

- (i) complete an enforcement certificate available on the SPER website;
- (ii) email a copy of the enforcement certificate to SPER (see SMCD); and
- (iii) upload the completed enforcement certificate to the QPRIME occurrence with a supplementary report.

Procedures for residual amounts of money

The amount of money SPER has an interest in may change from that initially identified. This could be in relation to further debts incurred or payments made by the enforcement debtor whilst the Service had possession of the money.

All residual amounts of money that do not form part of the enforcement warrant are to be returned to the owner, and the normal approval processes for return of property to an owner are to be followed.

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13.19 Casinos, unlawful gaming and match-fixing

13.19.1 Casino Crime Units and the Office of Liquor and Gaming Regulation

Casino crime squads have been established at most Queensland casinos. The Service works in co-operation with the Office of Liquor and Gaming Regulation to police Queensland casinos. The Office of Liquor and Gaming Regulation maintains Inspectors at every Queensland casino to monitor compliance with gaming regulations.

Where an incident occurs at any casino, the Officer in Charge, of the relevant Casino Crime Unit is to be advised.

Unless an incident at a Casino is considered significant or requires the urgent attention of the relevant Casino Crime Unit, advising the relevant Casino Crime Unit via a QPRIME notification task is sufficient.

Covert operations at a casino are not subject to the policies, procedures and orders established in the following sections.

13.19.2 Casino access

POLICY

The relevant Casino Crime Unit should be the initial point of contact for all police requiring access to facilities, staff or information which may be available from any particular casino. Where no Casino Crime Unit is established, officers should refer to local instructions.

PROCEDURE

Officers who in the course of their duties require access to:

- (i) a casino;
- (ii) a member of casino staff on duty at a casino; or
- (iii) information held by a casino.

should, where practicable, direct their request to the officer in charge of the relevant Casino Crime Unit. Where no casino crime squad is established officers should refer to local instructions.

ORDER

Officers in charge of divisions in which a casino is located, and at which no Casino Crime Unit has been established, are to develop local instructions relating to access to the casino, its staff and information held by the casino. These local instructions are to be developed after consultation with an Inspector, Office of Liquor and Gaming Regulation.

13.19.3 Camera surveillance requests

Casino complexes are monitored by cameras operated by both the casino management and the Office of Liquor and Gaming Regulation. Officers have no absolute right to use this equipment but must rely on the cooperation of the camera system's owners.

PROCEDURE

Officers requiring the use of camera monitoring equipment installed within a casino should request access to such equipment through the officer in charge of the relevant casino crime squad where such a squad exists.

When no staff from the relevant Casino Crime Unit are on duty or where no Casino Crime Unit is established, officers should request assistance from the Senior Inspector of the Office of Liquor and Gaming Regulation at that casino to use camera monitoring equipment.

Camera monitoring equipment installed within a casino complex should be used by officers only under the supervision of members of the relevant Casino Crime Unit where such a squad exists, or Inspectors employed by the Office of Liquor and Gaming Regulation in that casino.

13.19.4 Exclusion of a specified person from a casino

Exclusion direction

In prescribed circumstances:

- (i) a casino operator may give a person a written direction prohibiting the person from entering or remaining in a casino (see s. 92: 'Entry to and exclusion of entry from casino – generally' of the Casino Control Act (CCA)); or
- (ii) the Assistant Commissioner or Chief Superintendent, Crime (CIC Delegate), CIC may give a casino operator a written direction, which is not required to state any reason(s), to exclude a specified person from the casino (see s. 94: 'Commissioner of the police service may exclude entry' of the CCA and Delegation D 20.1).

An exclusion direction made under ss. 92 or 94 of the CCA remains in force from the time the excluded person is given notice of the direction or until revoked by the casino operator or the CSC, CIC as the case may be (see ss. 96: 'Duration of direction under s. 92 or 94' and 97: 'Duration of exclusion direction' of the CCA).

Criteria for exclusion

The Australian and New Zealand Policing Advisory Agency 'Casino Exclusion Orders – A National Protocol for Law Enforcement Agencies' (the '**National Protocol**') document makes a number of recommendations, including a standard criterion for determining whether to exclude a person from a casino. The Service has agreed to implement the National Protocol to the extent reasonably practicable. When deciding whether to apply for a specified person to be excluded, officers should be satisfied that the person meets one or more considerations as recommended in the National Protocol.

Circumstances under which it may be considered desirable to exclude a specified person from a casino, in accordance with s. 94(1) of the CCA, include that the person, meeting one or more of the following considerations,:

- (i) has a criminal history, or there is other evidence or intelligence of criminality that suggests the person warrants exclusion, or requires exclusion due to requirements of covert operations;
- (ii) is suspected of using the facilities of the casino for an unlawful purpose (e.g., cheating, money laundering, criminal association, or supply or use of prohibited drugs);
- (iii) is suspected of committing, or has been convicted of, an offence that would significantly impact on the integrity of gaming operations or would unlawfully finance a gambling habit at that casino;
- (iv) is the subject of a court order or other judicial process not to enter or attend licenced premises or a casino;
- (v) has a gambling problem sufficient to warrant exclusion;
- (vi) is suspected of being connected to espionage or foreign interference related activity;
- (vii) is suspected of, or there is other evidence or intelligence in relation to, associations with organised crime groups and/or outlaw motorcycle gangs, or suspected of illegal consorting at the casino complex;
- (viii) is suspected of having engaged in the financing of terrorism;
- (ix) is suspected of engaging in systematic or illegal money lending or loan-sharking at the casino complex; or
- (x) is an excluded person in another state or territory.

Application for exclusion direction

ORDER

Prior to submitting a report requesting that a specified person be excluded from a casino, officers are to complete a 'Cross Operations Search Request Form' on the State Intelligence Group (SIG) webpage on the Service Intranet.

Officers who consider a person should be excluded from a casino should:

- (i) create a 'Casino exclusion occurrence' in QPRIME; and
- (ii) submit a report, through the normal chain of command, to the CSC, CIC.

The report should contain:

- (i) the 'Request for Cross Operations Check' result;
- (ii) a completed QP 1028A: 'Application to Exclude Specified Person';
- (iii) a QP 1028B 'Notice of Direction to Exclude Specified Person', completed to the extent possible;
- (iv) a QP 1028C: 'Direction to Casino Operator to Exclude Specified Person', completed to the extent possible;
- (v) all relevant supporting documentation; and
- (vi) any other relevant information.

Notice of intention to make exclusion order

Where the CSC, CIC determines there are sufficient grounds in the application to make an exclusion direction, the reporting officer is to upload the QP 1028A to the QPRIME occurrence.

Exclusion direction outcome

Where the CSC, CIC:

- (i) approves an application, the reporting officer is to:
 - (a) upload the signed QP 1028B and QP 1028C and any written response from the CSC to the QPRIME occurrence; and
 - (b) commence the QPRIME workflows to enable service of the QP 1028B and QP 1028C on the excluded person and nominated casinos; or
- (ii) declines an application, the reporting officer is to:
 - (a) upload the written response from the CSC, CIC to the QPRIME occurrence; and
 - (b) finalise the occurrence as 'declined'.

Service of exclusion notices

In accordance with s. 125: 'Service of notices, documents etc.' of the CCA, the signed notices may be served on the excluded person and the casino operator by:

- (i) personal service;
- (ii) substituted service; or
- (iii) postal service.

Whenever practicable, notices should be served by personal service. Substituted or postal service may be utilised where personal service is not able to be completed. Officers who serve a QP 1028B on the excluded person are to complete the 'Oath of service' on the notice.

When a QP 1028B or QP 1028C are serviced, the officer is to:

- (i) upload a copy of the completed notice to the relevant QPRIME occurrence;
- (ii) update QPRIME to reflect service of the notice; and
- (iii) notify the Office of Liquor and Gaming Regulation (see SMCD for contact details).

Excluding a specified person from interstate casinos

Once a specified person has been excluded from one or more Queensland casinos under the CCA, the Detective Superintendent, SIG, may notify an authority for administering gaming legislation of another state or territory of the exclusion (see s. 94(3) of the CCA and Delegation D 20.1).

Breach of exclusion direction

A person who breaches an exclusion direction notice under s. 94 of the CCA by entering or remaining within a casino nominated in the QP 1028C, should be dealt with in accordance with s. 100: 'Particular persons not to enter or remain in casino' of the Act.

13.19.5 Office of Liquor and Gaming Regulation

The Office of Liquor and Gaming Regulation undertakes the regulation of liquor licensing, casinos, charitable gambling, machine gaming, interactive gambling, keno, lotteries and wagering.

The regulatory activities undertaken by the Office of Liquor and Gaming Regulation include licensing premises and persons, investigating complaints, conducting prosecutions and ensuring industry compliance with liquor and gambling legislation.

The Office of Liquor and Gaming Regulation also maintains a website on the internet, which contains useful guidelines and information concerning charitable and non-profit gambling and the conduct of competitions and raffles.

13.19.6 Unlawful gaming

The following sections of the Criminal Code contain provisions relating to unlawful gaming:

- (i) s. 230A: 'Definitions for ch 23';
- (ii) s. 232: 'Operating a place for unlawful games';
- (iii) s. 233: 'Possession of thing used to play an unlawful game'; and
- (iv) s. 234: 'Conducting or playing unlawful games'.

Other legislation relating to gaming is included in the:

- (i) *Casino Control Act*;
- (ii) *Charitable and Non-Profit Gaming Act*;
- (iii) *Gaming Machine Act*;
- (iv) *Interactive Gambling (Player Protection) Act*;
- (v) *Keno Act*;
- (vi) *Lotteries Act*; and
- (vii) *Wagering Act*.

Investigation of unlawful games offences

Section 230A of the Criminal Code defines an unlawful game as a game of chance, or mixed chance and skill, that:

- (i) is not authorised under an Act; and
- (ii) is played by 1 or more persons (players) who gamble or bet on an outcome of the game for the purpose of winning money or another consideration; and
- (iii) has at least 1 of the following characteristics:
 - (a) the game is conducted or played in a public place;
 - (b) the game is played in a place, or part of a place, the occupier of which allows, on payment of money or for other consideration, players to enter and use for playing the game;
 - (c) a percentage of the amount gambled or bet is:
 - kept by 1 or more of the players, or another person; and
 - not included in the winnings of the players.

A key consideration of the definition is whether players have staked money or anything of value on the outcome of the game.

The two main types of gaming activities most likely to be encountered by officers include 'funny money' events and poker tournaments.

Funny money events

'Funny money' events are popular with community groups as a fund raising activity.

A common way that 'funny money' events are held is that persons pay an entrance fee and receive a specified amount of unredeemable token money which is used to play a variety of gambling games (e.g. roulette and blackjack etc.) that are usually associated with a Casino. At the end of the games, an auction of donated goods is held and bids may be made with whatever token money a player has left.

'Funny money' events conducted in this way are unlawful games because, inter alia, an entrance fee is paid and players risk a stake on the outcome of the game for the purpose of winning a consideration or benefit (i.e. token money for which players may purchase auction goods).

Poker tournaments

Generally, other than in a licensed casino, any form of poker played in a public place and in which gambling is involved is an unlawful game. However, the Office of Liquor and Gaming Regulation advise that free to enter, free to play poker tournaments are an exception. Free to enter, free to play poker tournaments in public places, where the venue pays the tournament operator a fee for each player who participates in the tournament are not considered unlawful games on the basis that the entrants do not pay an entrance fee and are not risking anything of value. Furthermore, a game of poker between friends at a private dwelling where the amount bet on each game is received by the player with the winning hand is not an unlawful game.

POLICY

Officers investigating complaints or reports of suspected unlawful gaming should seek advice from the Office of Liquor and Gaming Regulation to establish whether such activities are authorised under legislation administered by that office.

Where any doubt exists as to what constitutes an unlawful game, officers are to ensure appropriate advice is sought before taking any enforcement action. See s. 1.13: 'Operational Legal Advice' of this Manual.

Inquiries concerning charitable gambling events, poker tournaments and casino nights

On occasion, inquiries are received by the Service concerning the conduct of charitable gambling events, poker tournaments for cash or prizes, casino nights using non-legal tender or 'funny money' and the establishment of businesses for the hire of casino gaming equipment for these purposes.

POLICY

Members of the Service receiving such inquiries should advise the inquirer to contact the Office of Liquor and Gaming Regulation and/or a solicitor for legal advice.

When two-up is lawful

Within Queensland, casinos have had an exclusive right to conduct two-up games under the respective Casino Agreements. These are commercial agreements between the State and the relevant operators authorised by the *Casino Control Act* and the relevant Casino Agreement Acts.

Two-up is also lawful if conducted in accordance with s. 179: 'Lawful two-up' of the *Charitable and Non-Profit Gaming Act* which allows for not-for-profit conduct of two-up games at Returned and Services League (RSL) or Services Clubs, and by persons authorised by an RSL sub-branch (in a liquor licensed premises) on Anzac Day and other designated days as prescribed under a regulation. Two-up on these occasions must not be played by a minor.

Returned and Services League sub-branches may provide approval to other licensed premises to play Two-Up on Anzac Day by providing a 'Approval of Licensed Venue to play Two-Up on Anzac Day' form to the other venue on an annual basis.

POLICY

Officers investigating a complaint of unlawful two-up should consider whether:

- (i) the game of two-up is lawful in the circumstances in accordance with s. 179: 'Lawful two-up' of the *Charitable and Non-Profit Gaming Act*; and
- (ii) commencing a prosecution is in the public interest taking into account all the circumstances including where and when the two-up game is being conducted.

Where an investigation into unlawful two-up relates to licensed premises other than a Returned and Services League or Services Club, officers are to make inquiries with the Returned and Services League to determine whether the licensed premises had obtained appropriate approval.

13.19.7 Match-fixing

A number of offences within the Criminal Code address the risk of organised crime infiltrating sport including with relevance to betting on sport, by targeting elite and sub-elite athletes for participation in match-fixing.

These offence provisions are detailed within Chapter 43: 'Match-fixing' of the Criminal Code and relate to a 'sporting event' or the happening of a 'sporting contingency' (see s. 443: 'Definitions for ch 43' of the Criminal Code).

Offences of the Criminal Code are:

- (i) s. 443A: 'Engaging in match-fixing conduct';
- (ii) s. 443B: 'Facilitating match-fixing conduct or match-fixing arrangement';
- (iii) s. 443C: 'Offering or giving benefit, or causing or threatening detriment, to engage in match-fixing conduct or match-fixing arrangement';
- (iv) s. 443D: 'Using or disclosing knowledge or match-fixing conduct or match-fixing arrangement for betting';
- (v) s. 443E: 'Encouraging person not to disclose match-fixing conduct or match-fixing arrangement'; and
- (vi) s. 443F: 'Using or disclosing inside knowledge for betting'.

POLICY

Where an officer is investigating a match-fixing offence whether a suspect successfully affected the outcome of the sporting event, or the happening of the sporting contingency, is not to impact a decision to commence a proceeding.

(See also s. 443G: 'Evidentiary provision' of the Criminal Code and s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual)

13.20 Compensation awarded to police officers**13.20.1 Procedures for officers seeking criminal compensation**

Section 34: 'Generally workers' compensation application finally dealt with before victim assistance application' of the *Victims of Crime Assistance Act*, outlines that a person subject to an act of violence may only apply for victim assistance if the person has made a worker's compensation application and it has finally been dealt with. This section also outlines those circumstances when the scheme manager may give a person approval to make an application for victim assistance without first making a workers' compensation application.

Section 35: 'Application for particular victim assistance can be made earlier' of the *Victims of Crime Assistance Act* also outlines when a person after making an application for workers' compensation under the *Workers' Compensation and*

Rehabilitation Act and before the application is finally dealt with, may apply for victims assistance. The victim assistance able to be provided in this circumstance however is limited. The assistance provided is limited to:

- (i) for a primary victim of an act of violence, expenses incurred:
 - (a) for the loss of or damage to clothing the victim was wearing when the act of violence happened (see s. 39(f): 'Composition of assistance' of the *Victims of Crime Assistance Act*);
 - (b) or reasonably likely to be incurred if exceptional circumstances exist e.g. relocation expenses, (see s. 39(g) of the *Victims of Crime Assistance Act*); and
 - (c) in applying for assistance under this Act up to \$500 for legal costs (see s. 38(2) of the *Victims of Crime Assistance Act*);
- (ii) for a witness secondary victim of a more serious act of violence, expenses incurred:
 - (a) or reasonably likely to be incurred if exceptional circumstances exist e.g. relocation expenses, (see s. 45(1)(f): 'Composition of assistance – witness to more serious act of violence' of the *Victims of Crime Assistance Act*); and
 - (b) in applying for assistance under this Act up to \$500 for legal costs (see s. 44(2): 'Amount of assistance' of the *Victims of Crime Assistance Act*); and
- (iii) for a related victim of an act of violence, reasonable expenses incurred:
 - (a) or reasonably likely to be incurred for counselling as a direct result of becoming aware of the primary victims death (see s. 49(1)(a): 'Composition of assistance' of the *Victims of Crime Assistance Act*);
 - (b) or reasonably likely to be incurred for medical expenses as a direct result of becoming aware of the primary victims death (see s. 49(1)(b) of the *Victims of Crime Assistance Act*);
 - (c) or reasonably likely to be incurred for incidental travel as a direct result of becoming aware of the primary victims death (see s. 49(1)(c) of the *Victims of Crime Assistance Act*);
 - (d) for report expenses for the application for assistance (see s. 49(1)(d) of the *Victims of Crime Assistance Act*);
 - (e) or reasonably likely to be incurred if exceptional circumstances exist e.g. relocation expenses, (see s. 49(1)(g) of the *Victims of Crime Assistance Act*); and
 - (f) in applying for assistance under this Act up to \$500 for legal costs (see s. 48(3): 'Amount of assistance' of the *Victims of Crime Assistance Act*).

PROCEDURE

Officers seeking to make application for criminal compensation should:

- (i) where eligible, make application for workers' compensation under the *Workers' Compensation and Rehabilitation Act* in the first instance, see also 'Workers compensation' within Compensation for injuries of the Human Resources Policies;
- (ii) after making an application for workers' compensation and before the application is finally dealt with, make an application for limited victim assistance pursuant to s. 35 of the *Victims of Crime Assistance Act*; and
- (iii) after making an application for workers' compensation and after the application is finally dealt with, apply for victim assistance pursuant to Chapter 3, Part 9: 'Applying for victim assistance' of the *Victims of Crime Assistance Act*. See also s. 33: 'When worker's workers' compensation application is finally dealt with' of the *Victims of Crime Assistance Act* for when a workers' compensation application has been decided.

Officers seeking criminal compensation should also see s. 5.6.25: 'Release of information under the Victims of Crime Assistance Act' of the *Management Support Manual* and ss. 2.12.1: 'Victims of Crime Assistance Act', 2.12.2: 'Victim Support Service (Office of the Director of Public Prosecutions (State))' and 2.12.3: 'Victims Assist Queensland' of this Manual for information on applications under the *Victims of Crime Assistance Act*.

13.20.2 Damages or penalties awarded to police officers

POLICY

Where a court awards a payment to members of this Service as compensation or restitution for an incident which occurred during the course of their duties, members may retain the payment. However, the receipt of such compensation or restitution is to be reported to the member's executive officer so that the compensation or restitution can be noted on the member's personal file (for record purposes only).

Where no restitution is ordered or compensation paid, the member may make application to the Service for an ex-gratia payment through the member's executive officer.

13.21 Judicial Review

The *Judicial Review Act* gives those persons aggrieved by a decision to which the Act applies an enforceable right to:

- (i) request the reasons for administrative decisions; and/or
- (ii) seek a Statutory Order of Review or an Order of Review in the Supreme Court regarding administrative decisions, to which the Act applies made by Government departments, local authorities, and most semi-government agencies and statutory authorities.

13.21.1 Statement of reasons

A person who is aggrieved by a decision to which the Act applies is entitled to be provided with a 'statement of reasons' for that decision upon request except in the following circumstances:

- (i) in notifying a person in relation to a decision, the decision includes or is accompanied by a statement, giving the reason(s) for the decision; or
- (ii) the decision is one that is included in a class of decisions set out in Schedule 2 of the *Judicial Review Act* which include:
 - (a) decisions relating to the administration of criminal justice (as stated in s. 1 of Schedule 2); and
 - (b) Police Service decisions (as stated in s. 9 of Schedule 2).

13.21.2 Statutory order of review

An aggrieved person may apply to the court for a statutory order of review in relation to a decision to which the provisions of the *Judicial Review Act* apply.

An aggrieved person is entitled to make such an application despite the fact that the person:

- (i) has been provided with a 'statement of reasons' for that decision; or
- (ii) is not entitled to be provided with a 'statement of reasons' for that decision.

13.21.3 Time limits

An application by an aggrieved person for a 'statement of reasons' must be in writing and made within twenty-eight days from when the decision was made. The *Judicial Review Act* requires that a decision maker is to provide reasons within twenty-eight days of receipt of an application for reasons for a decision.

The *Judicial Review Act* further provides that if a decision maker is of the opinion the requester is not entitled to be provided with a 'statement of reasons', the requester is to be notified of this opinion within twenty-eight days of receipt of the request.

Should a decision maker be of the opinion that a requester is not entitled to be provided with a 'statement of reasons' for the following reasons:

- (i) in the case where the requester had been given the decision, the terms of which were recorded in writing – the request was not made within twenty-eight days after the document was given; or
- (ii) in any other case – the request was not made within a reasonable time after the decision was given.

the decision maker may refuse to provide a 'statement of reasons'. Should the decision maker decide to refuse to provide a 'statement of reasons' in these circumstances, the decision maker must within fourteen days of receipt of the request, give written notice stating:

- (i) the statement will not be given to the requester; and
- (ii) the reasons why it will not be given.

Decision makers are to fully document the relevant evidence and reasons for every decision that potentially is subject to review.

Any correspondence which asks about a decision or how a decision was made (or not made), should be treated as a request for a 'statement of reasons'. The applicant does not have to mention the *Judicial Review Act* or refer specifically to a 'statement of reasons'.

ORDER

A member of the Service who receives a written request for a 'statement of reasons' is to treat it as urgent. The request should be forwarded without delay to the decision maker who is to immediately notify that member's OIC.

OICs are to seek advice from their assistant commissioner/executive director as to whether the decision is one to which the *Judicial Review Act* applies and what action is to be taken.

Members of the Service served with documents relating to an 'Application for a Statutory Order for Review' or similar documents requiring appearance at the Supreme Court, should immediately refer those papers to their assistant commissioner/executive director.

The assistant commissioner/executive director who receives papers relating to an 'Application for a Statutory Order for Review' or requesting the appearance of a member of the Service at the Supreme Court, is to refer the matter to QPS Legal Services through the Deputy Commissioner, Specialist Operations. This office will arrange the appropriate legal representation.

Copies (not originals) of any notices or statements received or given under judicial review are to be forwarded to the Director, QPS Legal Services. Advice on matters of judicial review must be obtained from QPS Legal Services through the Deputy Commissioner, Specialist Operations.

13.22 Explosives

13.22.1 Issuing, suspension or cancelling authorities

The *Explosives Act*, through the issuing of authorities, regulates the sale, possession, handling and use of explosives. An authority means a licence, permit or another authority issued under the *Explosives Act*.

The issuing of an authority pursuant to the *Explosives Act* is the responsibility of the Chief Inspector of Explosives, Queensland Explosives Inspectorate, Resources Safety and Health Queensland (see SMCD).

Section 23: 'Grounds for suspension or cancelling authorities' of the *Explosives Act* provides grounds for the suspension or cancellation of an authority.

All inquiries regarding authorities should be directed to the Chief Inspector of Explosives.

Where an officer becomes aware that the holder of an authority is no longer an appropriate person to be authorised in relation to explosives, that officer should furnish a report through the OIC of their region or command to the Chief Inspector of Explosives (see s. 15: 'Inquiries about person's appropriateness' of the *Explosives Act*).

Notification of a prescribed event under the Explosives Act

ORDER

A member of the Service who holds an authority to access, use and/or possess explosives under the *Explosives Act* must, as soon as practicable after becoming aware that a prescribed event has happened, give the Chief Inspector of Explosives notice (see s. 43(2): 'Notification requirements for all authority holders' of the Explosives Regulation).

A prescribed event, as defined in s. 43(1) of the Explosives Regulation, is where a member of the Service:

- (i) becomes aware of a change in circumstances that prevents the member complying with the Explosives Regulation or a condition of the authority;
- (ii) is convicted of an offence:
 - (a) relating to misuse of drugs;
 - (b) involving violence or threatened violence;
 - (c) involving the use, carriage, discharge or possession of a firearm; or
 - (d) relating to the use and handling of explosives; or
- (iii) is named as a respondent in a domestic violence order.

13.22.2 Incidents involving explosives

Schedule 2: 'Dictionary' of the *Explosives Act* defines terms for the purpose of the *Explosives Act*.

The Chief Inspector of Explosives has the power to investigate explosives incidents pursuant to s. 58: 'Investigation by chief inspector or authority holder' of the *Explosives Act*. Explosives Inspectors also have various powers under the *Explosives Act* to investigate explosives incidents and offences.

Officers attending an incident involving explosives are to ensure:

- (i) the Explosives Inspectorate is advised as soon as practicable and determine the role the Explosives Inspectorate will take in any subsequent investigation. Should the Explosives Inspectorate undertake the investigation, officers are to refrain from dealing with the explosives incident, unless the incident involves other matters such as death or injury, damage to property, or police-related issues;
- (ii) where the Explosives Inspectorate is not undertaking the investigation, the incident is investigated in accordance with the provisions of Chapter 2: 'Investigative Process' of this Manual; and

(iii) at the conclusion of the investigation, a report is furnished through the OIC of the region or command, who will forward it to the Chief Inspector of Explosives. The report is to contain the circumstances surrounding the accident, including:

- (a) the person(s) involved;
- (b) damage or injuries caused;
- (c) type and quantity of explosive;
- (d) type of detonator or initiating device;
- (e) length, etc. of fuse; and
- (f) source and approximate date of supply.

13.22.3 Entry to explosives factories and magazines

Section 39: 'Offences relating to entry of factories' of the *Explosives Act* creates an offence of entering an explosives factory while in physical possession of a firearm. Similarly, s. 47: 'Offences relating to entry of magazines' of the *Explosives Act* creates an offence relating to entering a magazine while in physical possession of a firearm. The provisions of each section exempt police officers when entering explosives factories or magazines when performing official duties.

13.22.4 Assistance to explosives inspectors

Assistance to Explosives Inspectors should be provided in accordance with s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this chapter.

13.22.5 Proceeding for an offence

Officers may commence a proceeding for an offence against the Explosives Act under s. 118: 'Proceeding for offence' of the *Explosives Act* or s. 799: 'Provisions restricting starting of proceeding' of the PPRA.

Officers who seek to commence proceedings in accordance with s. 118 of the *Explosives Act*, are to complete a 'Request for Authority to Prosecute' form, available on Forms Select. A representative of the Explosive Inspectorate will contact the investigating officer once the request has been processed.

Investigating officers are to ensure a copy of the emailed 'Request for Authority to Prosecute' form, associated reports and any subsequent replies are attached to the prosecutions copy of the Court Brief (QP9).

ORDER

Proceedings may be commenced under s. 799 of the PPRA however, as soon as reasonably practicable after starting the proceeding, the officer must inform the Chief Inspector of Explosives at the Explosives Inspectorate Office in their area, of the commencement of the proceeding (see SMCD).

13.22.6 Handling explosives

Officers in the performance of their duty are exempt from Part 4: 'Handling explosives', Divisions 2, 7 and 8 of the *Explosives Act* relating to the possession, transportation and use of explosives (see s. 8: 'Government entities exempt from Act' of the Explosives Regulation). However, before handling explosives, officers are to seek advice and, if required, assistance from the:

- (i) Service's Explosive Ordnance Response Team (see s. 17.10.1: 'Explosives Ordnance Response Team (EORT)' of this Manual); or
- (ii) Chief Inspector of Explosives, Explosives Inspectorate, Resources Safety and Health Queensland (see SMCD).

For military ordnance, requests for assistance from the Joint Explosive Ordnance Support (JEOS) of the Australian Defence Force are to be made through the local police communications centre in accordance with local instructions.

Qualified police bomb technicians are authorised by the Commissioner to destroy explosives in accordance with s. 715B of the PPRA. If a qualified police bomb technician is required, officers should contact the Service's Explosive Ordnance Response Team (see s. 17.10.1 of the Manual) or a qualified police bomb technician in accordance with local instructions.

Members are to be mindful of the storage requirements associated with explosives. Members are not exempt from the provisions of the *Explosives Act* concerning storage (see Part 4, Division 6: 'Storing explosives' of the Act). When an explosive has been seized or comes into the possession of a member in the course of performing their duties, they are to:

- (i) contact the Chief Inspector of Explosives, Explosives Inspectorate for advice; and
- (ii) comply with the provisions of s. 4.3.9: 'Dangerous/noxious things' of this Manual.

Where the explosive is small arms ammunition, it is exempt from s. 44: 'Authority needed to store explosives' of the *Explosives Act* by virtue of s. 95: 'Explosives exempt from s 44 of Act' and Schedule 4: 'Explosives exempt from section 44 of Act' of the Explosives Regulation. Small arms ammunition may be temporarily stored at a property point in accordance with Part 8, Division 2: 'Requirements for storing schedule 4 explosives' of the Explosives Regulation. The member receiving the ammunition at the property point is to:

- (i) consider contacting the Chief Inspector of Explosives, Explosives Inspectorate for advice concerning the appropriate storage; and
- (ii) comply with s. 4.3.8: 'Ammunition' of this Manual.

Disposal of commercial explosives

Members of the public who have lawful possession of commercial explosives, have attempted to dispose of them by surrendering the explosives to the Service, instead of disposing them in accordance with the conditions of the relevant authority to possess explosives issued under the *Explosives Act*.

The disposal of commercial explosives is not a function of the Service and may not fall within the ambit of 'carrying out official functions' nor could it be described as being in the performance of an officer's duty. Consequently, if explosives come into an officer's possession in such circumstances, any subsequent possession, transportation and use of explosives by the officer would not be covered by the exemption provided by s. 8 of the Explosives Regulation and may render the officer liable to prosecution for offences under the *Explosives Act*.

Officers are not to take possession of commercial explosives from persons in lawful possession of such for the purpose of disposal. Officers are to refer the person to the Explosives Inspectorate, Resources Safety and Health Queensland for disposal advice.

13.23 Move-on power

13.23.1 Directions to move on

The term '**move on direction**' means a direction given under the provisions of s. 48: 'Direction may be given to person' of the PPRA. A move on direction is any direction which is reasonable in the circumstances, but which does not interfere with a person's right of peaceful assembly, unless such interference is reasonably necessary in the interests of:

- (i) public safety;
- (ii) public order; or
- (iii) the protection of the rights and freedoms of other persons (see s. 48 of the PPRA).

The terms of a move on direction may include, but are not limited to, requiring a person to:

- (i) leave the regulated place and not return or be within the regulated place within a stated reasonable time, of not more than twenty-four hours;
- (ii) leave a stated part of the regulated place and not return or be within the stated part of the regulated place within a stated reasonable time, of not more than twenty-four hours; and
- (iii) move from a particular location at or near the regulated place for a stated reasonable distance, in a stated direction and not return or be within the stated distance from the place within a stated reasonable time, of not more than twenty-four hours.

13.23.2 When do move on powers apply

Officers who reasonably suspect that a person's behaviour or presence at or near a regulated place is or has been:

- (i) causing anxiety to a person entering, at or leaving the place, reasonably arising in all the circumstances;
- (ii) interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place. However, this applies to premises used for trade or business only if the occupier of the premises complains about the person's behaviour; or
- (iii) disrupting the peaceable and orderly conduct of any event, entertainment or gathering at the place;

may give that person a move on direction (see s. 46: 'When power applies to behaviour'; s. 47: 'When power applies to a person's presence' and s. 48 of the PPRA). However, if the regulated place is a public place, a move on direction can be given to the person, only if the person's behaviour or presence has or had the effect mentioned, in the part of the public place at or near where the person then is (see ss. 46(2) and 47(2) of the PPRA).

A move on direction may also be given where an officer reasonably suspects, because of the person's behaviour, a person is soliciting for prostitution in a public place. For this purpose, a public place does not include any area in a licensed brothel that cannot be viewed from outside the brothel (see s. 46(5) and Schedule 6: 'Dictionary' of the PPRA).

Officers may also give a person a move on direction if they reasonably suspect that a person's behaviour at or near a regulated place is or has been disorderly, indecent, offensive or threatening to someone entering, at or leaving the place (see s. 46 of the PPRA). However, if the regulated place is a public place, a move on direction can only be given if the person's behaviour has or had the effect mentioned, in the part of the public place at or near where the person is.

13.23.3 Giving a move on direction

Because the right of a person to move about peacefully in public places is carefully guarded by the community generally, a decision to use a power under the PPRA interfering with a person's right to free movement, should be able to withstand public scrutiny.

Officers should ascertain the following before deciding to give a move on direction to a person:

- (i) whether informal means of directing a person to move on would be a more appropriate method in de-escalating the situation. For example, asking the person to leave the area.
- (ii) any reason the person offers for being in or near the place;
- (iii) the nature of any complaint made about the person;
- (iv) the nature of any anxiety the person is allegedly causing to someone else and whether the anxiety has any factual basis; and
- (v) the effect of the person's presence or behaviour on anyone else in or near the place.

An officer who gives a person or group of persons a move on direction is to, as soon as reasonably practicable:

- (i) request the name and address of any person to whom a direction is given. It should be noted however that the giving of a move on direction is not in itself a prescribed circumstance for which a police officer may require a person to state their name and address (see s. 40: 'Person may be required to state name and address' and s. 41: 'Prescribed circumstances for requiring name and address' of the PPRA);
- (ii) state the officer's name, rank and station or establishment to any person who is to be given a move on direction (see s. 637: 'Supplying police officer's details' of the PPRA);
- (iii) if not wearing uniform, to inform the person to be given a move on direction that the officer is a police officer and produce for that person's inspection the officer's identity card (see s. 637 of the PPRA); and
- (iv) tell the person or group of persons the reasons for giving the direction (see s. 48(4) of the PPRA).

Officers should give a direction substantially in the following form:

I am [name, rank] of [name of police station/establishment].

I direct you [indicate person or group or name of person if known] to immediately [leave/move (distance) from place/location] and you are not to [return/be within (distance) of place/location] for a period of [not longer than 24 hours].

If you fail to comply with this direction without a reasonable excuse, you will be committing an offence for which you may be arrested.

The reason I am giving this direction is [state reason as outlined in s. 46(1) or 47(1) of the Act].

Officers who give a person or group of persons a move on direction should record in their official police notebook details of the:

- (i) time and date the direction was given;
- (ii) location of the person or group when the direction was given;
- (iii) name and address, if known, of the person or persons given the direction or a description of the person given the direction, including age, sex and ethnic background;
- (iv) terms of the direction given; and
- (v) ensure an occurrence is entered in QPRIME as soon as reasonably practicable.

ORDER

Officers are not to give a move on direction to a person or group of persons whose behaviour or presence is interfering with trade or business at a place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place unless the occupier of the place complains about the presence or behaviour of the person or group (see ss. 46 and 47 of the PPRA).

Officers who give a person or group of persons a move on direction are to ensure that an occurrence is entered in QPRIME as soon as is reasonably practicable.

Officers are not to give a move on direction to any person involved in an authorised public assembly (see s. 45: 'Part does not apply to authorised public assemblies' of the PPRA).

13.23.4 Failure to comply with move on directions

ORDER

Before taking any enforcement action for failing to comply with an oral direction, an officer is to, if practicable, warn a person who fails to comply with a move on direction that it is an offence to fail to comply with the direction unless the person has a reasonable excuse and that the person may be arrested for the offence. The officer must give the person a further reasonable opportunity to comply with the direction (see s. 633: 'Safeguards for oral directions or requirements' of the PPRA).

PROCEDURE

Prior to taking any enforcement action against a person who is reasonably suspected of having contravened a move on direction, officers should:

- (i) ascertain that the person is a person to whom a move on direction was given;
- (ii) determine whether the actions of the person do contravene the terms of the move on direction;
- (iii) establish whether the person has a reasonable excuse for failing to comply with the move on direction;
- (iv) warn the person that it is an offence to fail to comply with a move on direction and that the person may be arrested for the offence; and
- (v) give the person a reasonable opportunity to comply with the direction.

13.23.5 Inspection of the Register of directions given

POLICY

The Policelink entered occurrence generated in relation to a move on direction is to be considered as an entry in the register of directions given.

ORDER

Officers who are requested by a person to whom the relevant information relates to provide information from the register of directions given are to supply a print out of the relevant occurrence entry in QPRIME as soon as reasonably practicable to the person (see s. 681: 'Persons to be given copy of information in register' of the PPRA).

Officers who are requested to supply information in respect of an entry in the register of directions given which does not identify any persons to whom a direction was given by name are to satisfy themselves that the person making the request is a person to whom the information relates. Information should not be given to a person unless an officer believes that the person requesting the information is entitled to be given such information in accordance with the provisions of s. 681 of the PPRA.

Officers who provide information from the register of directions given or who refuse to provide information from the register should ensure that an appropriate entry is made on the relevant station or establishment job recording system.

13.24 Directions in state buildings

For this section a reference to an officer is a reference to a police officer and a protective services officer unless otherwise stated.

Chapter 19, Part 1, ss. 549 to 555: 'Directions in state buildings' of the PPRA provides officers with powers relating to entrants to state buildings (as defined in s. 549: Meaning of state building' of the PPRA). These include:

- (i) a requirement of an entrant to state and provide evidence of the entrant's name and address;
- (ii) a requirement of an entrant to state the entrant's reason for being at, or about to enter, the building;
- (iii) asking an entrant to:
 - (a) walk through a walk-through detector and pass the entrant's belongings through an X-ray machine;
 - (b) allow the officer to pass a hand held scanner in close proximity to the entrant and the entrant's belongings;
 - (c) allow the officer to inspect the entrant's belongings;
 - (d) remove one or more outer garments worn by the entrant as specified by the officer and allow the officer to inspect the garments;
 - (e) remove all articles from the entrant's clothing and allow the officer to inspect them;
 - (f) open an article for inspection and allow the officer to inspect it;
 - (g) allow the officer, or another adult assisting the officer, to touch a garment the entrant is wearing for the purpose of the officer inspecting the entrant's belongings;

- (h) open a vehicle or a part of it for inspection and allow the officer to inspect it; and/or
 - (i) remove an article from the vehicle as specified by the officer and allow the officer to inspect it;
 - (j) move a vehicle to, and park it in, a place specified by the officer; or
 - (k) if the officer reasonably believes a belonging of the entrant is capable of concealing a proscribed thing—deposit the belonging in a place specified by the officer.
- (iv) directing an entrant, or group of entrants, to leave a state building immediately, and take the entrant's belongings out of the building, if the entrant fails to:
- (a) state the person's reasons for being in or about to enter the building; or
 - (b) allow an officer to exercise a power under ss. 550: 'Power to require name and address and reason for entry' or 551: 'Use of electronic screening devices' of the PPRA.
- (v) seizing a proscribed thing (i.e. an explosive substance, a firearm, a noxious or offensive substance, or an offensive weapon) found in the possession of a person in a state building, unless the person is lawfully in possession of it in the course of the person's trade, business or calling (see s 556: 'Seizure of proscribed thing' of the PPRA); or
- (vi) unless the person is arrested for a contravention of s. 791 (contravene direction of police officer), removing from or preventing entry of the entrant to a state building, if the entrant fails to comply with a request made or direction given under ss. 549 to 553A of the PPRA or fails to satisfy a police officer that the entrant has a good and lawful reason to be in a particular state building.

ORDER

Officers considering it reasonably necessary to make a request as outlined in paragraphs (iii)(c) to (k) above, are to tell the entrant the reasons for making the request.

Officers (including protective service officers) or persons assisting an officer, who are touching a garment the entrant is wearing, for the purpose of inspecting the entrant's belongings, are to comply with s. 553A: 'Gender safeguards for inspection of entrant's belongings' of the PPRA.

Officers touching the garment are to be of the same gender as the entrant if it is reasonably practicable to do so. However, the officer may ask an adult to assist if reasonably necessary:

- (i) to ensure that the person touching the garment and the entrant are of the same gender;
- (ii) to accommodate a preference expressed by the entrant; or
- (iii) to address a concern related to gender in a way that minimises embarrassment and offence.

Prior to the commencement of any inspection, officers are to:

- (i) explain the process of the inspection process; and
- (ii) provide reasonable opportunity for the entrant to express a preference about the gender of the person touching the garment.

Where the entrant has expressed a gender preference, the preference is to be accommodated unless:

- (i) there are reasonable grounds that the responsible officer believes the preference is for an improper purpose; or
- (ii) it is not reasonably practicable to accommodate the preference.

Notwithstanding the above, an officer of the different gender to the entrant may touch the entrant's garments if, in the circumstances, that is the most appropriate way to address a concern related to gender.

If an officer reasonably suspects it is necessary to protect the dignity of an entrant to a state building and it is reasonably practicable, the officer may ask the entrant to allow an inspection of the entrant's belongings to be conducted out of public view, for example, in a room of the state building.

Officers intending to exercise any power under Chapter 19, Part 1, ss. 549 to 555: 'Directions in state buildings' of the PPRA should, where practicable, advise a commissioned officer prior to exercising the power.

Where practicable, officers should advise any State Government Protective Security officers at the relevant state building of their intention to use any of the powers under Chapter 19, Part 1, ss. 549 to 555: 'Directions in state buildings' of the PPRA.

This section does not limit or otherwise affect the powers a police officer has under the PPRA to search a person or vehicle without a warrant.

Detention of entrants by protective services officers

If a protective services officer reasonably suspects a person who is an entrant to a state building has committed an offence at or in connection with the building they may:

- (i) detain the person for the time reasonably necessary to give the person into the custody of a police officer;
- (ii) is to release the person at the earliest reasonable opportunity if the person is no longer reasonably suspected of committing the offence for which the person was detained,

(see s. 558 'Detention of entrants by protective services officers' of the PPRA).

13.25 Environmental (State Parks and Wildlife) offences

Issues concerning State parks and wildlife fall within the responsibility of the Department of National Parks, Recreation, Sport and Racing, the Department of Environment and Heritage Protection or the Department of Agriculture, Fisheries and Forestry.

See also s. 13.7: 'Land environment' of this chapter.

13.25.1 Appointment of conservation officers, inspectors and authorised officers

In accordance with s. 127: 'Appointment of conservation officers' of the *Nature Conservation Act*, the Minister responsible for the appropriate department may appoint police officers as conservation officers.

In accordance with s. 143: 'Appointment and qualifications' of the *Recreation Areas Management Act*, the chief executive may appoint suitably qualified police officers as authorised officers under the Act.

In accordance with s. 52: 'Appointment and qualifications' of the *Marine Parks Act*, the chief executive may appoint police officers as authorised officers under the Act.

Despite the authorising laws, s. 13: 'Appointment of police officers as public officials for other Acts' of the *Police Powers and Responsibilities Act*, police officers are only to be appointed as public officials under the authorising law with the Commissioner's written approval to the proposed appointment.

13.25.2 Investigation and prosecution of offences relating to State parks and wildlife issues

Investigation of offences relating to State parks and wildlife issues are generally conducted by authorised officers attached to the relevant department.

POLICY

Authorised police officers may undertake investigations relating to parks and wildlife issues utilising powers under the PPRA.

Pursuant to s. 164: 'Indictable and summary offences' of the *Nature Conservation Act*, offences against that Act may be either indictable or summary.

Proceedings under the:

- (i) *Nature Conservation Act*;
- (ii) *Marine Parks Act*; and
- (iii) Marine Parks Regulation,

should be commenced in accordance with s. 42: 'Commencement of proceedings' of the *Justices Act*.

Under s. 200: 'Summary proceedings for offences' of the *Recreation Areas Management Act* authorised officers, or any other authorised person, may commence a prosecution. Therefore police officers who are authorised officers under the *Recreation Areas Management Act* may commence a prosecution under this Act.

However, in appropriate circumstances police officers, who are not authorised officers under the *Recreation Areas Management Act*, may commence a prosecution without prior authorisation. In any such case the police officer commencing the prosecution is to inform the chief executive of the relevant department, of the starting of the proceedings as soon as reasonably practicable after starting the proceedings (see s. 799: 'Provisions restricting starting of proceedings' of the PPRA). Notification can be made by contacting a representative of the relevant department.

A time limitation for starting a summary proceeding applies under:

- (i) s. 167: 'Limitation on time for starting summary proceedings' of the *Nature Conservation Act*;
- (ii) s. 133: 'Limitation on time for starting summary proceedings' of the *Marine Parks Act*; and
- (iii) s. 200(2): 'Summary proceedings for offences' of the *Recreation Areas Management Act*.

Wildlife seizures

Members are generally not expected to physically handle wildlife. The handling and care of wildlife is the responsibility of the Queensland Parks and Wildlife Service and where possible members should contact the nearest Queensland Parks and Wildlife Service office for assistance.

POLICY

When officers take possession of wildlife, the wildlife should be delivered to the nearest Queensland Parks and Wildlife Service officer at the first available opportunity. The responsibility for the delivery of that wildlife rests with the officer taking possession of such wildlife.

When wildlife has to be retained until delivery to a wildlife officer of the Queensland Parks and Wildlife Service, the officer seizing the wildlife is responsible for its safe custody and welfare.

Wildlife should not be released into the wild without first consulting with a Queensland Parks and Wildlife Service officer.

PROCEDURE

When officers deliver wildlife to the Queensland Parks and Wildlife Service, they should advise the Queensland Parks and Wildlife Service officer of any retention requirements.

See also Chapter 4: 'Property' of this Manual.

Dealing with prohibited animals

The keeping of most exotic animals as pets is prohibited in Queensland under the *Stock Route Management Act*. Registered zoos and circuses can keep certain exotic species for exhibition purposes, but only under a permit and with strict conditions. A person is also required to hold a permit to keep most Australian native animals. For information regarding permits or assistance with the identification and appropriate management of exotic animals, contact the local Biosecurity Officer or local government pest management officer who is authorised under the *Stock Route Management Act*.

For inquiries regarding native animals, contact the Department of Environment, Science and Innovation (see SMCD).

13.25.3 Reporting wildlife offences

POLICY

Members receiving information regarding wildlife offences are to provide the information to the Queensland Parks and Wildlife Service.

Generally, information regarding offences relating to cruelty to or the killing of wildlife, or the illegal collection of native plants should be investigated by members of the Queensland Parks and Wildlife Service and not members of the Service, unless exceptional circumstances exist.

Queensland Parks and Wildlife Service to be advised

POLICY

Officers who receive information relating to cruelty to or the killing of wildlife, or the illegal collection of native plants, are to pass this information to their nearest office of the Queensland Parks and Wildlife Service. Members are to advise members of the public that they may also report illegal activities relating to wildlife to the Queensland Parks and Wildlife Service.

Attacks by wildlife

POLICY

Any complaint in relation to attacks by protected wildlife should be directed to Queensland Parks and Wildlife Service officers.

PROCEDURE

Members should:

- (i) record particulars to identify the complainant and the nature of the complaint; and
- (ii) refer such a complaint to a Queensland Parks and Wildlife Service officer at the first available opportunity.

After hours contact numbers are available from the Duty Officer, Police Communications Centre, Brisbane.

13.25.4 Deleted**13.25.5 Deleted****13.25.6 Aboriginal Cultural Heritage Act**

The responsibility for dealing with matters under the *Aboriginal Cultural Heritage Act* rests with the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts.

Officers may, from time to time, receive reports of possible indigenous burial remains being located or of disputes over burial sites. Should this occur, the officer receiving the information should:

- (i) advise the complainant/inquirer that the Service does not have the responsibility for administering the *Aboriginal Cultural Heritage Act*;

(ii) assist the complainant/inquirer in contacting the Cultural Heritage Unit, Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts (see SMCD); and

(iii) comply with the provisions of s. 8.5.15: 'Location of possible indigenous burial remains' of this Manual.

13.25.7 Dams

Dams used for the purpose of water storage are present throughout Queensland and may at times be subject to policing matters such as search and rescue and missing person investigations. The Department of Energy and Water Supply is the authority responsible for the identification and overall management of dams in Queensland, and as part of this responsibility provide resources such as mapping to other government authorities.

Officers requiring information relating to a specific dam or in relation to dams generally, should contact the Department of Energy and Water Supply (see SMCD). Officers wishing to obtain a map or maps of all dams within a particular police district should make application to Geographic Information Services (GIS), by accessing the Geographic Information Services website on the Service Intranet. Geographic Information Services can provide maps in both printed and digital form.

13.26 Racial, religious, sexuality and gender identity vilification (Anti-Discrimination Act)

The *Anti-Discrimination Act* (ADA) seeks to promote equality of opportunity for everyone by protecting people from unfair discrimination in certain areas of activity, including work, education and accommodation. Sections 124A: 'Vilification on grounds of race, religion, sexuality or gender identity unlawful' and 131A: 'Offence of serious racial, religious, sexuality or gender identity vilification' outline circumstances whereby public acts may amount to unlawful acts of racial, religious, sexuality or gender identity vilification.

The Queensland Human Rights Commission (QHRC) is the administering body of the ADA, with offices located in Brisbane, Rockhampton, Townsville and Cairns.

The Cultural Engagement Unit (CEU), Communications, Culture and Engagement Division (CCE), provides advice and support to members of the Service in relation to cultural issues and monitors racial incidents including offences against the ADA. Also see s. 6.4: 'Cross-cultural issues' of this Manual.

The State Coordinator, Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Liaison Program, Crime Prevention Programs Unit, CCE, provides advice and support to members of the community regarding LGBTI policing issues. See s. 1.7.10: 'Lesbian, Gay, Bisexual, Transgender and Intersex Liaison Program' of this Manual.

Breaches of the Act

The ADA provides for civil remedies, which are dealt with by the QHRC, and also for criminal offences (see s. 131A).

Incidents involving racial, religious, sexuality or gender identity vilification may come to the attention of police officers in the performance of their duties. The procedures to adopt in these circumstances will depend on the nature and extent of the apparent or alleged actions of the offender(s).

Contraventions of s. 124A of the ADA are investigated by the QHRC and may subsequently be heard and determined by the Queensland Civil and Administrative Tribunal. The tribunal may make one or more orders under s. 209: 'Orders the tribunal may make if complaint is proven' of the ADA, including ordering the respondent to pay the complainant an amount of compensation for loss or damage caused by the contravention.

Where a member of the Service receives a complaint that may constitute a breach of s. 124A of the ADA and the circumstances are not sufficient to constitute an offence against s. 131A of the ADA, the member should:

- (i) advise the complainant of the relevant provisions of s. 124A and that redress may be sought through the QHRC; and
- (ii) where appropriate:
 - (a) direct the complaint to the online complaint form on the QHRC website; or
 - (b) provide the contact details of the QHRC.

Offences against s. 131A of the ADA are investigated by the Service.

Where an incident, which may involve the commission of an offence against s. 131A of the ADA, is reported to a staff member, that member is to notify an officer.

Where an officer receives a complaint, which may constitute an offence against s. 131A of the ADA, the officer should:

- (i) deal with the complaint in the same manner as any other offence;
- (ii) advise the complainant:
 - (a) of the relevant provisions of s. 131A of the ADA;

- (b) all complaints of an offence against s. 131A of the ADA are investigated by the QPS; and
- (c) the QHRC wish to be advised of the matter;
- (iii) seek the complainant's consent to release the complainant's personal details to the QHRC;
- (iv) where appropriate, provide contact details of the QHRC to the complainant;
- (v) record in the General report in the QPRIME occurrence whether the complainant consents to their personal details being released to the QHRC;
- (vi) notify the:
 - (a) relevant district coordinator, LGBTI Liaison Program; and
 - (b) OIC, CEU (Email: Cultural Engagement Unit); or
 - (c) State Coordinator, LGBTI Liaison Program (Email: LGBTI State Coord), as applicable,of the details of the complaint and the QPRIME occurrence number; and
- (vii) ensure an appropriate description of the incident is completed in the 'Stats Classification – Vilification (hate) crime type' within QPRIME.

The district coordinator, LGBTI Liaison Program, should liaise with the investigating officer as necessary, and consider any emerging issues, including whether the matter will have a significant impact, adverse or otherwise, on a particular community or group that may be involved in the matter. Where an issue is identified, the district coordinator should liaise with the:

- (i) cross-cultural liaison officer;
- (ii) regional coordinator, LGBTI Liaison Program;
- (iii) CEU; and/or
- (iv) representatives of the QHRC,

as appropriate, and ensure all necessary action is taken to resolve the issues.

Prosecution of offences

Written consent from a Crown Law officer (Attorney-General or Director of Public Prosecutions) must be obtained before a proceeding under s. 131A of the ADA is commenced.

Officers who investigate an offence against s. 131A of the ADA and determine prosecution of the offence should be commenced are to:

- (i) compile a brief of evidence (FBOE); and
- (ii) complete a report seeking consent of a Crown Law officer to commence proceedings.

The FBOE and report should be forwarded to the relevant Office of the Director of Public Prosecutions (State) through the normal chain of command.

Once written consent of a Crown Law officer is obtained, proceedings may be commenced by way of complaint and summons or notice to appear.

Advice to Queensland Human Rights Commission

The OIC, CEU or State Coordinator, LGBTI Liaison Program should, as soon as practicable, provide brief written advice (initial advice) of the details of a complaint or report of a suspected offence against s. 131A of the ADA to the QHRC.

The advice should:

- (i) not contain a complainant's personal details where the complainant has not consented to the release of their personal details; and
- (ii) be in a format consistent with Appendix 13.5: 'Suggested format for advice regarding a complaint of an offence against s. 131A of the Anti-Discrimination Act 1991' of this chapter.

In all cases, investigating officers are to notify the OIC, CEU or the State Coordinator, LGBTI Liaison Program of the outcome of any investigation or prosecution for an offence against s. 131A of the ADA as soon as possible after an investigation is complete. This notification should allow sufficient time for the OIC, CEU or the State Coordinator, LGBTI Liaison Program to advise the QHRC of such details prior to the defendant's first court appearance.

Upon being notified as above, the OIC, CEU or the State Coordinator, LGBTI Liaison Program, once satisfied as to the contents of the matter, is to forward brief written advice (final advice) to the Commissioner, QHRC as soon as practicable. In cases where proceedings have been commenced, the advice is to be provided before the defendant's first court appearance. The advice should be in a format consistent with Appendix 13.5 of this chapter.

Referral from Queensland Human Rights Commission

Complaints concerning offences against s. 131A of the ADA received at the QHRC will be referred to the OIC, CEU or the State Coordinator, LGBTI Liaison Program. The OIC, CEU or the State Coordinator, LGBTI Liaison Program is to refer such complaints to and liaise with the regional crime coordinator in the region where the offence is alleged to have occurred.

Inquiries

Any inquiries regarding racial or religious vilification, or the contents of this section, can be directed to the CEU, CCE.

Inquiries regarding sexuality or gender identity vilification should be directed to the relevant district coordinator, LGBTI Liaison Program in the first instance.

Contact may also be made with the QHRC for further information on what may constitute racial, religious, sexuality or gender identity vilification.

Requests for further information received from the QHRC are to be dealt with in accordance with s. 5.6.30: 'Release of information to the Queensland Human Right Commission' of the MSM.

13.27 Personal Injuries Proceedings Act

The *Personal Injuries Proceedings Act* was introduced to regulate claims for and awards of damages based on liability for personal injuries. The *Personal Injuries Proceedings Act* contains a number of offence provisions however, police officers cannot instigate proceedings for these offences without the authority of the Attorney-General, Department of Justice and Attorney-General (State).

Members may have cause to deal with complaints of offences against the following sections of the *Personal Injuries Proceedings Act*.

13.27.1 Section 10(1): 'Person to whom notice of a claim is given must give preliminary response to claimant' of the Act

Before starting a civil proceeding for a personal injury claim, a claimant must give a written notice to the person against whom the proceeding is proposed to be started pursuant to s. 9: 'Notice of a claim' of the *Personal Injuries Proceedings Act*.

Section 10(1): 'Person to whom notice of a claim is given must give preliminary response to claimant' of the *Personal Injuries Proceedings Act* provides that where a notice of claim is given, the person must then respond to the claimant in writing within one month of receiving Part 1 of the notice of claim. The responses that the person may give are outlined in s. 10(1)(a) to (c). Failure to respond to the notice of claim is an offence.

POLICY

Where a person reports an offence against s. 10(1): 'Person to whom notice of a claim is given must give preliminary response to claimant' of the Act, members should refer to the provisions of s. 13.27.3: 'Dealing with offences against the Personal Injuries Proceedings Act' of this chapter.

13.27.2 Section 67: 'Prohibition of touting at scene of incident or at any time' of the Act

Section 67: 'Prohibition on touting at scene of incident or at any time' of the *Personal Injuries Proceedings Act* provides that it is unlawful for a 'prohibited person' to solicit or induce a 'potential claimant' involved in an incident to make a personal injuries claim in certain circumstances. The section also provides that it is unlawful for a 'prohibited person' to give a 'potential claimant' involved in an incident, or someone on the potential claimant's behalf, the name, address or telephone number of:

- (i) a particular law practice; or
- (ii) an employee or agent of a law practice.

Exemptions from the provisions of s. 67: 'Prohibition on touting at scene of incident or at any time' of the *Personal Injuries Proceedings Act* are provided in s. 67A: 'Exemption from s 67(3) and (4)' of the *Personal Injuries Proceedings Act*.

For the purpose of s. 67: 'Prohibition on touting at scene of incident or at any time' of the Act:

Prohibited person

means a person who, for the purpose of the person's employment, is attending or attended the scene of an incident at or from which a person allegedly suffered personal injury or at a hospital after an incident at or from which a person allegedly suffered personal injury.

Example – a tow truck operator, police officer, ambulance officer, emergency services officer, doctor or hospital worker.

Potential claimant

means:

- (i) a person who suffers, or may suffer, personal injury arising out of an incident; or
- (ii) another person who has or may have a claim in relation to a person mentioned in paragraph (i).

ORDER

Members of the Service must not solicit or induce a potential claimant to make a personal injuries claim.

Members of the Service must not give a 'potential claimant' involved in an incident, or someone on the potential claimant's behalf, the name, address or telephone number of a particular law practice or an employee or agent of a law practice.

Where a person reports an offence against s. 67: 'Prohibition on touting at scene of incident or at any time' of the Act, members should refer to the provisions of s. 13.27.3: 'Dealing with offences against the Personal Injuries Proceedings Act' of this chapter.

13.27.3 Dealing with offences against the Personal Injuries Proceedings Act**PROCEDURE**

Members who receive a complaint or detect an offence against the *Personal Injuries Proceedings Act* should, in addition to complying with the provisions of s. 1.11: 'QPRIME – Policelink entered occurrences' of this Manual, ensure an investigation is conducted into the incident with a view to establishing whether evidence exists to support a prosecution.

If the investigation reveals evidence supporting a prosecution, the investigating officer should:

- (i) prepare a Court Brief (QP9) and full brief of evidence in relation to the offence;
- (ii) submit the Court Brief (QP9) and full brief of evidence to an appointed brief checker for approval; and
- (iii) upon receipt of the brief checker's approval, submit a report, together with the Court Brief (QP9) and full brief of evidence to the officer in charge of the officer's region or command for referral to the Official Solicitor, Department of Justice and Attorney-General for prosecution.

Upon receipt of a Court Brief (QP9) together with a full brief of evidence relating to an intended prosecution for the offence against the *Personal Injuries Proceedings Act*, officers in charge of regions or commands should consider all the available evidence relating to the alleged offence. Where appropriate the matter should be referred to the Official Solicitor, Department of Justice and Attorney-General with a request to commence a prosecution.

However, in circumstances where a member of the Service may have committed the offence, the provisions of 'Complaint Management' of the Human Resources Policies are to be complied with.

13.28 Education (General Provisions) Act

The *Education (General Provisions) Act* (E(GP)A) contains provisions which include:

- (i) offences of wilful disturbance and trespass at State educational institutions;
- (ii) directions, orders and offences about conduct or movement related to State instructional institutions and non-State schools; and
- (iii) compulsory schooling and participation in education and training and penalties for their non-compliance.

13.28.1 Directions and offences under the Education (General Provisions) Act**Wilful disturbance and trespass at State educational institutions**

Section 333: 'Wilful disturbance' of the *Education (General Provisions) Act* (E(GP)A) provides that a person must not:

- (i) wilfully disturb the good order or management of a State educational institution; or
- (ii) insult a staff member of a State educational institution in the presence or hearing of a student of the institution, who is, at the time in question:
 - (a) in or about the institution; or
 - (b) assembled with others for educational purposes at or in any place.

However, this section does not apply to a person who was, at the time of question, a student of the State educational institution (see s. 333(3) of the E(GP)A).

Section 334: 'Trespass' of the E(GP)A provides that a person must not be on the premises of a State educational institution unless the person has lawful authority or a reasonable excuse for being on the premises.

Directions and orders about conduct or movement at, or entry to, premises of State instructional institutions

Chapter 12, Part 5, ss. 335-342, of the E(GP)A provides for directions and orders about conduct or movement at, or entry to, premises of State instructional institutions and related offences.

The E(GP)A allows for State instructional institution's principals to give a person, other than an exempt person:

- (i) a written direction, about that person's conduct or movement at the institution's premises, for up to 30 days after the day on which the direction is given, if the principal is reasonably satisfied it is necessary for a reason outlined in s. 337: 'Direction about conduct or movement' of the E(GP)A;
- (ii) an oral direction, requiring that person to immediately leave and not re-enter the institution's premises for 24 hours after the time of the direction if the principal reasonably suspects the person has done or is about to do one of a number of acts outlined in s. 339: 'Direction to leave and not re-enter' of the E(GP)A; and
- (iii) a written direction requiring that person not to enter the premises of a State instructional institution, for up to 60 days after the day on which the direction is given, if the principal is reasonably satisfied one of the acts under s. 340: 'Prohibition from entering premises' of the E(GP)A is likely.

If a State instructional institution's principal proposes to give a direction under s. 337 or s. 339 to a person at the institution's premises, the principal may require the person to state the person's name and residential address and give evidence of the correctness thereof. An offence is committed if a person fails to comply with a requirement to state name and address or provide evidence of the correctness thereof, unless the person has a reasonable excuse. See s. 336: 'Person may be required to state name and address' of the E(GP)A.

The E(GP)A allows for the Chief Executive to:

- (i) also exercise the power under s. 340 if the Chief Executive or principal reasonably believe it is appropriate (see s. 340A: 'Chief executive may prohibit person from entering premises' of the E(GP)A); and
- (ii) give a person, other than an exempt person, a written direction prohibiting the person from entering the premises of a State instructional institution for more than 60 days, but not more than 1 year (see s. 341: 'Prohibition from entering premises' of the E(GP)A).

A person who does not comply with a direction given under ss. 337, 339, 340 or 341 of the E(GP)A, unless the person has a reasonable excuse commits an offence (see ss. 337(5), 339(4), 340(6) and 357: 'Noncompliance with court order' of the E(GP)A).

The above directions cannot be given to an exempt person which includes a student of the institution or an employee of the department engaged to perform work at the institution's premises (see 'exempt person' in s. 335: 'Definitions for pt 5' of the E(GP)A).

Directions and orders about conduct or movement at, or entry to, premises of non-State schools

Chapter 12, Part 6, ss. 343-351, of the E(GP)A provides for directions and orders about conduct or movement at, or entry to, premises of non-State schools and related offences.

The E(GP)A allows for non-State school's principals to give a person, other than an exempt person:

- (i) a written direction, about that person's conduct or movement at the institution's premises, for up to 30 days after the day on which the direction is given, if the principal is reasonably satisfied it is necessary for the reasons outlined in s. 346: 'Direction about conduct or movement' of the E(GP)A;
- (ii) an oral direction, requiring that person to immediately leave and not re-enter the school's premises for 24 hours after the time of the direction, if the principal reasonably suspects the person has done or is about to do one of a number of acts outlined in s. 348: 'Direction to leave and not re-enter' of the E(GP)A; and
- (iii) a written direction requiring that person not to enter the school's premises, for up to 60 days after the day on which the direction is given, if the principal is reasonably satisfied that, unless the direction is given, one of the acts under s. 349: 'Prohibition from entering premises' of the E(GP)A is likely.

If a non-State school's principal proposes to give a direction under s. 346 or s. 348 to a person at the institution's premises, the principal may require the person to state the person's name and residential address and give evidence of the correctness thereof. An offence is committed if a person fails to comply with a requirement to state name and address or provide evidence of the correctness thereof, unless the person has a reasonable excuse. See s. 344: 'Person may be required to state name and address' of the E(GP)A.

The E(GP)A allows for the non-State school's governing body, or its nominee to:

- (i) also exercise the power under s. 349 if the principal or governing body reasonably believe it is appropriate (see s. 349A: 'Non-State school's governing body or nominee may prohibit person from entering premises' of the E(GP)A); and
- (ii) give a person a written direction prohibiting a person from entering the school's premises for more than 60 days, but not more than 1 year (see s. 350: 'Prohibition from entering premises' of the E(GP)A).

A person who does not comply with a direction given under ss. 346, 348, 349 or 350 of the E(GP)A, unless the person has a reasonable excuse commits an offence (see ss. 346(5), 348(5), 349(5) and 350(6) of the E(GP)A).

The above directions cannot be given to a student of the institution, or an employee of the school's governing body engaged to perform work at the school's premises (see 'exempt person' in s. 343: 'Definitions for pt 6' of the E(GP)A).

Prohibition from entering premises of all State instructional institutions and non-State schools for up to 1 year

Under Chapter 12, Part 7, ss. 352 and 353 of the E(GP)A, the Chief Executive may apply to a court for an order prohibiting a person, from entering the premises of:

- (i) all State instructional institutions (see s. 353 of the E(GP)A); or
- (ii) all State instructional institutions and non-State schools (see s. 352 of the E(GP)A),

for up to one year. The court may make such an order if satisfied on the balance of probabilities that the person poses an unacceptable risk to the safety or wellbeing of members of school communities of the institutions in general.

A person who does not comply with an order given by the court under s. 352 or s. 353 of the E(GP)A commits an offence (see s. 357: 'Noncompliance with court order' of the E(GP)A). However, an application for an order under s. 352 or s. 353 of the E(GP)A may not be made in relation to a student of State instructional institution or non-State school (see s. 352(2) and s. 353(2) of the E(GP)A).

13.28.2 Powers under the Police Powers and Responsibilities Act

The PPRA contains provisions relating to:

- (i) move on powers associated with the presence or behaviour of persons at or near a prescribed place, namely a primary, secondary or special school. See Chapter 2, Part 5: 'Directions to move-on' (ss. 46 to 48) of the PPRA and s. 13.23: 'Move-on power' of this Chapter; and
- (ii) dealing with breaches of the peace and prevention of offences. See Chapter 2, Part 6: 'Breaches of the peace, riots and prevention of offences' (ss. 50 and 52) of the PPRA and s. 13.4.8: 'Breaches of the peace' of this chapter.

13.28.3 Dealing with offences relating to State instructional institutions and non-State schools

The Department of Education and non-State schools will only make a complaint to, or refer matters to the police when:

- (i) offences under the *Education (General Provisions) Act* (E(GP)A) are committed and a prosecution is sought; or
- (ii) the PPRA may apply and assistance is required to remove persons from State educational institutions' or non-State schools' premises.

Officers attending or investigating the above matters should:

- (i) act in accordance with ss. 2.4: 'Incident Management' and 2.5: 'Investigation' of this Manual;
- (ii) interview the appropriate person making the complaint (teacher, principal, etc.);
- (iii) obtain copies of all relevant directions previously given; and
- (iv) deal with the matter by:
 - (a) where appropriate, issue a move-on direction (see s. 13.23: 'Move-on power' of this chapter);
 - (b) where necessary to prevent a breach of the peace happening or continuing, use their powers under s. 50: 'Dealing with breach of the peace' of the PPRA;
 - (c) where they reasonably suspect an offence has been committed, is being committed or is about to be committed, take steps reasonably necessary to prevent the commission, continuation or repetition of the offence (see s. 52: 'Prevention of offences – general' of the PPRA);
 - (d) if related to State educational institutions, consider ss. 333: 'Wilful disturbance' and 334: 'Trespass' of the E(GP)A;
 - (e) where related to trespass, refer to s. 13.17: 'Trespass' of this chapter;
 - (f) where related to a person not complying with a principal's requirement to state their name and residential address or to give evidence of their correctness under ss. 336 or 344 of the E(GP)A, ask the person whether they have a reasonable excuse for not complying. If the person:
 - gives an excuse, ask for details or further details of the excuse; or
 - does not answer the question or gives an excuse that is not reasonable, require the person to state the person's name and address under s. 40: 'Person may be required to state name and address' of the PPRA; and

(g) where related to failing to comply with a principle's direction under ss. 337, 339, 340, 346, 348, 349 of the E(GP)A, if appropriate, warn the person, it is an offence to fail to comply with the relevant direction unless the person has a reasonable excuse and that the person may be arrested or otherwise prosecuted for the offence. The Act contains provisions which allow persons against whom directions have been issued, to appeal. When investigating possible offences against these sections, officers are to ensure that no order has been made suspending such a direction.

13.28.4 Compulsory schooling and participation in education and training

Non-compliance with compulsory schooling or participation requirements

The Department of Education (DoE) procedures concerning non-compliance with compulsory schooling or participation requirements under ss. 176: 'Obligation of each parent' or 239: 'Obligation to ensure participation' of the E(GP)A, are located on the their Managing student absences and enforcing enrolment and attendance at state schools internet site. The relevant procedures, processes, forms and referral letters are contained on the site. They include:

- (i) 'Processes for enforcing parental obligation that a child of compulsory school age is enrolled at a state school';
- (ii) 'Processes for enforcing parental obligation that a child of compulsory school age attends on every school day, for the educational program in which the child is enrolled'; or
- (iii) 'Processes for enforcing parental obligation that a young person in the compulsory participation phase participates full time in an eligible option'.

Matters will only be referred to police for prosecution with the consent of the DoE Chief Executive or delegate (regional director). This referral only occurs after formal processes have been implemented (see ss. 179 and 242: 'Limits on proceedings against a parent' of the E(GP)A).

Commencing proceedings for an offence

Where a representative of DoE makes a complaint in relation to a parent breaching the compulsory schooling or participation provisions, the reporting officer is to ensure that all relevant documentation, including statements, copies of written notices sent to the parent/s and the written consent to commence proceedings, are obtained from the DoE representative and attached to the relevant QPRIME occurrence.

The reporting officer is to ensure the required evidentiary certificates, which may be issued pursuant to ss. 407 and 410 of the E(GP)A, accompany the written consent (see the document titled 'Template 6' available in OneSchool (Enforcement of Attendance)).

Despite the provisions of s. 799: 'Provisions restricting starting of proceeding' of the PPRA, officers should only commence proceedings for an offence under s. 176 or s. 239 of the E(GP)A following a formal complaint from the DoE and where the authority to commence proceedings under s. 179 or s. 242 of the E(GP)A has been obtained.

When investigating such an offence, officers are to ensure that consideration is given to the provisions of ss. 3.4.2: 'The decision to institute proceedings' and 3.4.3: 'The discretion to prosecute' of this Manual.

Investigating officers are to ensure that the representative from the DoE who made the complaint is advised of the outcome of the investigation and court proceedings and where a prosecution has failed, provide an explanation of the reasons why the prosecution failed.

Child of school age detected not attending school by officers

The OIC of a station, establishment or relevant CPIU should ensure liaison occurs between the local police and the State educational institutions and non-State schools in the area to establish a local protocol for dealing with instances of police detecting a child of compulsory school age not attending the institution or school.

The development of such a protocol between the Service and the principal of a State educational institution or non-State school may include discussions with the Department of Child Safety, Youth and Women.

13.29 Noise complaints

The PPRA provides officers with powers to deal with complaints about excessive noise of certain types. The PPRA also provides additional powers to deal with complaints specifically relating to noise emitted by a motorbike being driven on a place that is not a road.

Additionally, three flow charts are contained in Appendices 13.6, 13.7 and 13.8 of this chapter showing the processes for dealing with excessive noise and should be read in conjunction with this section.

Definitions

The definitions for the majority of terms used in this section are contained in s. 69: 'Definitions for ch 4' of the PPRA. However, for the purpose of this section:

Current NAD

means a noise abatement direction, other than a current motorbike NAD, for which the noise abatement period has not expired (see s. 581(3)(a): 'Powers of police officer to deal with excessive noise' of the PPRA).

Current motorbike NAD

means a noise abatement direction contained in a Form 95: 'Noise Abatement Direction (Motorbike)', given to the rider of a motorbike for which the noise abatement period has not expired (see s. 581(3)(b) of the PPRA).

Initial impoundment period for a motor vehicle

means:

- (i) a period of 48 hours starting when the motor vehicle is impounded; or
- (ii) if the period of 48 hours ends at any time after 5pm and before 8am on a day, a period starting when the motor vehicle is impounded and ending at 8am next occurring after the period of 48 hours ends (see s. 69: 'Definitions for ch 4' of the PPRA).

(Example – A motorbike is impounded at 2am on the 3rd July because the driver of the motorbike committed a motorbike noise direction offence. The initial impoundment period would end at 8am on the 5th July.)

NAD

means a noise abatement direction (see s. 581 of the PPRA).

Noise abatement period

means

- (i) for a noise abatement direction given in relation to a motorbike being used on a place that is not a road – 48 hours after the direction is given; or
- (ii) for any other noise abatement direction – 96hrs after the direction is given (see s. 582(4) of the PPRA).

Legislative provisions to deal with excessive noise

The provisions of Chapter 19, Part 3, ss. 576 to 591: 'Powers relating to noise' of the PPRA provide officers with powers to deal with an environmental nuisance caused by noise that is audible at or near any residential or commercial premises and is excessive in the circumstances. The noise that the legislation applies to is noise of a kind mentioned in ss. 578(1)(b), 579(1)(b), 580(1)(b) or 580(2)(b) of the PPRA, namely noise emitted:

- (i) from a place by:
 - (a) a musical instrument;
 - (b) an appliance for electrically producing or amplifying music or other sounds;
 - (c) a motor vehicle, other than a motor vehicle on a road;
 - (d) a gathering of people for a meeting, party, celebration or similar occasion; or
- (ii) by a motorbike being driven on a place that is not a road; or
- (iii) from a motor vehicle on a road or in a public place and is emitted by an appliance for electronically producing or amplifying music or other sounds including, for example, by a radio, CD player or other similar equipment for producing or amplifying music or other sounds that is in the motor vehicle.

Chapter 19, Part 3 of the PPRA does not apply to an environmental nuisance caused by noise emitted from a place:

- (i) while being used for an open air concert or commercial entertainment; or
- (ii) by a public meeting under a permit under a law authorising the amplification or reproduction of sound by:
 - (a) any electrical or mechanical appliance, apparatus or device; or
 - (b) another way; or
- (iii) while the place is being used by motor vehicles under a permit under a law (see s. 576(2): 'Application of pt 3' of the PPRA).

13.29.1 Investigation and first direction

ORDER

As soon as practicable after receiving or being notified of a complaint made by a person including an anonymous complainant about excessive noise, an officer is to investigate the complaint or cause it to be investigated, unless the officer believes the complaint is frivolous or vexatious.

An officer may also take action without a complaint about excessive noise emitted from a motor vehicle on a road or in a public place.

POLICY

A member receiving a complaint about excessive noise is to:

- (i) check with the local police communication centre for any record of a current NAD, current motorbike NAD or motorbike noise abatement order relating to the place from which the noise is being emitted; and
- (ii) if the person details are known, check QPRIME for any noise direction or order flag against the person; and convey any relevant information to the officer detailed to investigate the complaint.

The specific conditions of a current NAD and motorbike NAD are recorded in QPRIME against the person details as a:

- (i) 'Direction noise/move on/eviction' flag;
- (ii) 'MB noise direction' flag; or
- (iii) 'MB noise order' flag,

as appropriate.

Officers who:

- (i) are detailed to investigate a complaint about noise and are attending in response to the complaint and the complaint relates to noise emitted:
 - (a) from a place;
 - (b) by a motorbike being driven on a place that is not a road; or
 - (c) from a motor vehicle on a road or in a public place; or
- (ii) hear noise and the noise is emitted from a motor vehicle on a road or in a public place and are investigating the noise without a complaint having been received; and

a current NAD or a current motorbike NAD is not in force, are to be reasonably satisfied the noise complained of is clearly audible at or near residential or commercial premises or when acting without a complaint being made, the noise is clearly audible at or near residential or commercial premises prior to taking any further action. This may be achieved by attending at or near the residential or commercial premises or when acting without a complaint, the officer is to take note of the location of residential or commercial premises in relation to the road or public place where the motor vehicle is located.

In deciding whether the noise is excessive in the circumstances, officers should have regard to any relevant matters, including:

- (i) the degree of interference the noise is causing, or is likely to cause to the conduct of activities ordinarily carried out in the vicinity of the place from which the noise is being emitted and the nature of the lawful uses permitted for premises in the vicinity of the place from which the noise is being emitted; or
- (ii) where the investigation relates to noise being emitted from a motor vehicle on a road or in a public place – the degree of interference or annoyance the noise is causing, or is likely to cause, to persons in the vicinity of the road or public place.

An officer who is reasonably satisfied that the noise to which Chapter 19, Part 3: 'Powers relating to noise' of the PPRA applies is excessive in the circumstances:

- (i) may:
 - (a) investigate the emission of excessive noise, or to give a NAD to the person responsible for the emission of excessive noise, from a motor vehicle on a road or in a public place or a motorbike being driven on a place other than a road, require the person in control of a vehicle, to stop the vehicle (see s. 60: 'Stopping vehicles for prescribed purposes' of the PPRA); and
 - (b) enter the place from which the noise is being emitted without a warrant;
- (ii) is to give the person responsible for the noise, a NAD either orally or in writing. When an oral direction is given, the wording of the direction should resemble the following:

'I direct you to immediately abate that excessive noise which is being emitted by (insert source of excessive noise) from this place'

(iii) ensure the direction given, whether orally or in writing, directs any person responsible for the noise, or for permitting the noise to be caused to immediately abate the excess noise from the place. Persons responsible for noise include, if the noise is being emitted from or by a motor vehicle – the person driving the motor vehicle or if the noise is being emitted from another place – the person apparently in charge of the place; or

(iv) if the direction relates to noise emitted by a motorbike being driven on a place that is not a road, give the person(s) responsible for the noise a Motorbike NAD in a Form 95: 'Noise Abatement Direction (Motorbike)' (available in QPRIME and on QPS Forms Select) directing the driver to immediately abate the excessive noise from the motorbike;

(v) if the person to whom a Motorbike NAD is given is a child, ensure a copy of the Form 95: 'Noise Abatement Direction (Motorbike)' is given to the child's parent or guardian if it is reasonably practicable to do so;

(vi) if a NAD or Motorbike NAD is about to be given, is being given or has been given to someone, may require a person to state the person's correct name and address and may require the person to give evidence of the correctness of the stated name and address if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated name or address or to otherwise be able to give the evidence (see s. 40: 'Person may be required to state name and address' of the PPRA).

When officers give a person an NAD, the following particulars are to be recorded in their official police notebook and provided to the local police communications centre:

- (i) the name, address of the person(s) to whom a NAD was given;
- (ii) the time and date the NAD was given;
- (iii) if the NAD was given in relation to noise emitted from or by a motor vehicle, the particulars necessary to properly identify the vehicle;
- (iv) a general description of the place or, if the NAD relates only to a part of the place, a general description of the part of the place to which the NAD relates;
- (v) the substance of the direction;
- (vi) name, rank and station/establishment; and
- (vii) other relevant information.

When officers give a person a NAD, the details of the NAD including a motorbike NAD are to be recorded in QPRIME as a 'Direction noise/move on/eviction' flag and a 'MB noise direction' flag as appropriate against the person details.

When a person is given a Motorbike NAD, the issuing officer is to:

- (i) record relevant information as required by the preceding paragraph;
- (ii) complete a Form 95: 'Noise Abatement Direction (Motorbike)' (available in QPRIME and on QPS Forms Select) and give to the person where possible and if the person is a child to the child's parent or guardian if it is reasonably practicable to do so; and
- (iii) ensure the Form 95 is added as an attachment to the relevant QPRIME occurrence.

Officers in charge of police communication centres are to ensure that a register is maintained in which records of NAD are kept.

See also s. 2.1.2: 'Registers required to be kept' and subsection titled 'Enforcement acts (Register entries and what reports to supply from QPRIME)' of this Manual.

13.29.2 Additional powers of police officers on later investigation

PROCEDURE

If a noise abatement direction has been given about a place and within the noise abatement period, an officer is satisfied on further investigation that the officer must again exercise the powers mentioned in s. 581: 'Powers of police officers to deal with excessive noise' of the PPRA about the same place or the same motor vehicle, an officer may:

- (i) to investigate the emission of excessive noise from a motor vehicle on a road or in a public place or a motorbike being driven on a place other than a road, require the person in control of a vehicle, to stop the vehicle (see s. 60: 'Stopping vehicles for prescribed purposes' of the PPRA);
- (ii) without a warrant, enter the place from which the noise is being emitted (see s. 583: 'Additional powers of police officers on later investigation' of the PPRA);
- (iii) identify the person(s) who may be committing an offence under s. 582: 'Compliance with noise abatement direction' of the PPRA, namely the person to whom a NAD or motorbike NAD was given and any person who knows a NAD was given. If applicable require their correct name and address and give evidence of the correctness of the stated name and address pursuant to s. 40: 'Person may be required to state name and address' of the PPRA;

- (iv) in relation to the property that is or was being used to produce or contribute to the production of the noise:
 - (a) lock, seal or otherwise deal with it in a way to prevent its further use;
 - (b) seize and remove it from the place; or
 - (c) make it inoperable by removing any part or parts and seizing and/or removing the part or parts from the place.(see s. 583: 'Additional powers of police officers on later investigation' of the PPRA);
- (vi) if the property is a motorbike and:
 - (a) s. 80: 'Impounding motorbike for motorbike noise direction offence or motorbike noise order offence' of the PPRA applies, impound the motorbike under that section. If consideration is being given to impounding the motorbike (see Chapter 15: 'Impounding motorbikes for noise offences' of the Traffic Manual); or
 - (b) s. 589: 'Noise abatement order – application for order' of the PPRA applies, make an application for a noise abatement order (see s. 13.29.4: 'Motorbike noise abatement orders' of this chapter).

13.29.3 Property seized and removed under s. 583(2) of the Police Powers and Responsibilities Act

PROCEDURE

When any property is seized and removed from a place under s. 583(2): 'Additional powers of police officers on later investigation', of the PPRA, (other than a motorbike impounded under s. 74: 'Impounding motor vehicles' of the PPRA), the officer seizing and removing the property:

- (i) may seek the help of another person (an assistant) the officer reasonably requires and if required, take any assistant, equipment, vehicle, animal or material onto a place the officer reasonably requires and may use necessary and reasonable force (see ss. 612: 'Assistance in exercising powers', 613: 'Protection for assistants from liability', 614: 'Power to use force – exercise of certain powers' and 615: 'Power to use force against individuals' of the PPRA);
- (ii) should advise the occupier:
 - (a) of the seizure, removal and the police station where the property is being conveyed to;
 - (b) that the property should be claimed and collected from the nominated police station by the owner or the person from whose possession the property was seized, or someone else acting on behalf of these persons; and
 - (c) that the claim and the collection of the property should be made during office hours on a business day after the end of the noise abatement period as defined in s. 582(5): 'Compliance with noise abatement direction' of the PPRA;
- (iii) should remove the property to a police station or establishment, where it is to be held in safe custody;
- (iv) ensure that the relevant provisions of Chapter 4: 'Property' of this Manual are complied with in respect to the seized property; and
- (v) ensure that the relevant property register is endorsed with the date and time at which the property may be released.

Officers in charge of stations where property seized under these provisions of the PPRA has been removed to should ensure that:

- (i) the property is placed in safe custody in accordance with station/establishment Instructions and Chapter 4: 'Property' of this Manual; and
- (ii) the property is only given to the owner or the person from whose possession the property was seized or a person acting for these persons at the expiration of the relevant period and in accordance with s. 585: 'Recovery of seized property' of the PPRA.

However, nothing in s. 585: 'Recovery of seized property' of the PPRA prevents a police officer retaining seized property if the police officer reasonably suspects the property is evidence of the commission of an offence.

PROCEDURE

Where an officer has taken possession of property under the PPRA and the owner or person from whom it was seized has failed to arrange for its collection after fourteen days from its seizure, and the property is not required as an exhibit in connection with any prosecution, that officer should:

- (i) draft a letter in a format similar to that shown at Appendix 13.1: 'Suggested format for letter under Police Powers and Responsibilities Act' of this chapter, to the owner, if known, and the person from whom it was seized, ensuring a three month period is noted from the time the property was seized to the time it will be considered to be unclaimed; and

(ii) submit that letter and the original Property Register entry (reporting officer copy) to the relevant officer in charge.

The officer in charge who receives such a report should ensure the letter(s) is forwarded to the owner of the property, if applicable, and the person from whom it was seized.

If after the three month period from the date of seizure the property has not been claimed, the officer in charge should treat the property as unclaimed property and deal with it in accordance with s. 4.6: 'Disposal of property' of this Manual.

For motorbikes impounded under s. 80 of the PPRA, see Chapter 15: 'Impounding motorbikes for noise offences' of the Traffic Manual.

Notice of damage

POLICY

Officers seizing, handling and/or removing property are to take all reasonable precautions to ensure that no damage is done to the property or any other thing.

ORDER

Where damage is caused to anything by an officer when exercising a power under the PPRA, the officer is to promptly give written notice (QP 0730: 'Notice of Damage' (available in QPRIME or on QPS Forms Select) to the person who appears to be the owner of the thing in accordance with the provisions of s. 636: 'Police officer to give notice of damage' of the PPRA.

13.29.4 Motorbike noise abatement orders

POLICY

Officers may apply for a motorbike noise abatement order under s. 589: 'Noise abatement order – application for order' of the PPRA if a person (the respondent):

- (i) contravenes a noise abatement direction in relation to excessive noise emitted by a motorbike driven on a place other than a road; or
- (ii) is given 2 noise abatement directions within a period of 1 month in relation to excessive noise emitted by a motorbike and the directions both relate to the driving of the motorbike on the same place which is not a road.

ORDER

A noise abatement order is an order that the driving of the motorbike by the respondent be restricted in the way requested in the application.

If an officer decides to make an application for a noise abatement order, the application:

- (i) is to be made within 48 hours after the contravention of a motorbike NAD, or if two motorbike NADs were given in one month, within 48 hours after the contravention of the second motorbike NAD; and
- (ii) is to be made to the relevant court using a Form 96: 'Application for a noise abatement order (motorbike)' (available in QPRIME or on QPS Forms Select) or under s. 800: 'Obtaining warrants, orders and authorities, etc. by telephone or similar facility' of the PPRA (see subsection titled: 'Use of Police Powers and Responsibilities Act to obtain warrants, orders etc., by telephone or similar facility' of s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of this Manual).

POLICY

Before applying, the applicant officer is to complete an application in a Form 96: 'Application for noise abatement order (motorbike)' stating the grounds on which the noise abatement order is sought and all other relevant information.

A copy of a completed Form 96: 'Application for noise abatement order (motorbike)' is to be lodged with the Clerk of the Court of the relevant court within the 48 hours period as outlined above.

If the application is made on the grounds that the respondent contravened a motorbike noise abatement direction which has resulted in a prosecution, the stated date for the application should coincide with the date on which the related prosecution will be next mentioned.

ORDER

As soon as reasonably practicable after a date is set for hearing the motorbike noise abatement order application, the applicant officer is to ensure that notice of the application is given to:

- (i) the respondent;
- (ii) if the respondent is not the owner of the motorbike, the owner of the motorbike;
- (iii) if the respondent is:
 - (a) a child; or
 - (b) not the owner of the motorbike and the owner of the motorbike is a child,

the child's parent or guardian if it is reasonably practicable to do so; and

(iv) if the

- (a) respondent;
- (b) owner of the motorbike; or
- (c) child's parent or guardian,

as appropriate, is not the owner of the land on which the contravention happened, the owner of the land if it is reasonably practicable to do so.

When a Form 97: 'Notice of application for noise abatement order (motorbike)' is given to any of the above mentioned persons, the officer giving the notice is to complete and sign the endorsement outlining when the notice was given.

POLICY

The identity of the owner of a motorbike may be ascertained by asking the driver of the motorbike, checking QPRIME and/or conducting checks with the Department of Transport and Main Roads in accordance with Chapter 7: 'Obtaining information from external bodies' of the Management Support Manual.

To identify the owner of the land, requests for information may be made to external agencies, such as the Department of Environment and Heritage Protection or the Residential Tenancies Authority, in accordance with Chapter 7 of the Management Support Manual.

PROCEDURE

The applicant officer is required to provide the evidence which is available in support of the motorbike noise abatement order application to the relevant police prosecutions corps no later than fourteen days before the matter is set for hearing wherever practicable. The evidence includes:

- (i) a copy of the relevant Form 96: 'Application for noise abatement order (motorbike)';
- (ii) if the application is on the grounds that the respondent contravened a motorbike NAD, a copy of the Form 95: 'Noise abatement direction (motorbike)';
- (iii) if the application is on the grounds that the respondent was given two motorbike NAD within a period of one month in relation to excessive noise emitted by a motorbike and the directions both relate to the driving of the motorbike on the same place which is not a road, copies of both directions (i.e. Form 95: 'Noise abatement direction (motorbike)');
- (iv) statements/affidavits by the applicant officer, and others taken from witnesses, including those of a corroborative, conflicting or negative nature;
- (v) copies of each endorsed Form 97: 'Notice of application for noise abatement order (motorbike)' given in compliance with the previous order; and
- (vi) a Form 98: 'Noise abatement order (motorbike)' prepared for issuance by the relevant magistrates court.

13.29.5 Duties of police prosecutors and officers in charge after the application for a motorbike noise abatement order is determined

PROCEDURE

After an application for a Motorbike Noise Abatement Order is heard and determined, the police prosecutor who prosecuted the application is to:

- (i) if the application was successful, obtain the Form 98: 'Noise abatement order (motorbike)' from the court and:
 - (a) ensure a 'MB Noise Order' flag is entered in QPRIME against the person named in the order with details of the order; and
 - (b) send the order to the officer in charge of the station or establishment to which the applicant officer was attached.

Officers in charge, upon receipt of a motorbike noise abatement order, are to ensure:

- (i) that it is added as an attachment to the relevant QPRIME occurrence; and
- (ii) appropriately filed.

13.29.6 Appeals against motorbike noise abatement order

Section 591: 'Noise abatement order – appeal against order' of the PPRA allows an adult or child against whom a noise abatement order has been made to appeal against the order to the district court or, the childrens court constituted by a judge, respectively within 28 days after the day the order was made.

Officers are to comply with the relevant provisions of s. 3.11: 'Appeals' of this Manual when appeals are, or are to be, commenced.

13.29.7 Offences/powers

POLICY

A police officer who reasonably suspects an offence against provisions of Chapter 19, Part 3, ss. 576 to 591: 'Powers relating to noise' of the PPRA has been committed and a person may be able to give information about the offence, the officer may require the person to answer a question about the offence (see s. 588: 'Power to require answers to questions' of the PPRA).

A person required to answer a question under s. 588: 'Power to require answers to questions' of the PPRA and contravenes such a requirement given by a police officer may commit an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA unless the person has a reasonable excuse.

If a person fails to comply with the requirement, prior to taking any action under s. 791 of the PPRA, officers are to comply with the provisions of s. 633: 'Safeguards for oral directions or requirements' of the PPRA by warning the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse and that the person may be arrested for the offence. Additionally, the police officer is to give the person a reasonable opportunity to comply with the requirement.

Offences relating to excessive noise, failing to comply with a noise abatement direction and failure to answer questions should, where possible, be commenced by way of complaint and summons, notice to appear or an infringement notice where applicable (see s. 3.5: 'The institution of proceedings' of this Manual). In some cases, the arrest provisions of s. 365 of the PPRA may apply.

13.29.8 Other noise complaints

PROCEDURE

Complaints made about motor vehicles creating excessive noise on a road, where the provisions of s. 580 of the PPRA do not apply, should be dealt with as a breach of s. 291: 'Making unnecessary noise or smoke' of the Transport Operations (Road Use Management – Road Rules) Regulation (See codes 2296 and 2297 of the Infringement Notice Offence Codes and Penalties on the Service Intranet or s. 69A(1)(d) of the PPRA).

Persons making complaints relating to noise which are outside the scope of s. 580 of the PPRA and cannot be otherwise dealt with by police should be referred to the local government authority. Complaints which cannot be dealt with by the local government authority should be referred to the Environmental Protection Agency.

13.30 Starting a civil proceeding

Officers are at times required to commence a civil proceeding in a Queensland court. In Queensland a civil proceeding starts when an originating process is issued by the court (see rule 8: 'Starting proceedings' of the Uniform Civil Procedure Rules (UCPR)).

The UCPR provides for the following types of originating processes:

- (i) Claim (Form 2);
- (ii) Application:
 - (a) (Form 5: 'Originating application – used to start a proceeding); or
 - (b) (Form 9: 'Application' – used to obtain an order in a proceeding that is already underway);
- (iii) Notice of appeal; and
- (iv) Notice of appeal subject to leave.

(These forms may be obtained from website: <https://www.courts.qld.gov.au/about/forms>)

A proceeding must be started by claim unless these rules require or permit the proceeding to be started by application (see rule 9: 'Claim compulsory' of the UCPR). Rule 10 of the UCPR outlines when a proceeding must be started by application, rule 11 outlines when a proceeding may be started by application.

An example of commencing a civil proceeding by originating application (Form 5) is when a police officer makes an application for:

- (i) an order under s. 694: 'Application by police officer for order if ownership dispute' of the PPRA (see s. 4.7.1: 'Disputed ownership (disposal)' of this Manual); or
- (ii) a variation or revocation of an offender prohibition order under s. 13Q: 'Varying or revoking an offender prohibition order' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROP)A).

See Appendix 13.9: 'Example of completed Form 5 – Originating Application' of this chapter. See also s. 694: 'Application by police officer for order if ownership dispute' of the PPRA.

An example of commencing a civil proceeding by application (Form 9) is when a police officer makes an application for or for authorisation of substituted service when documents are unable to be served personally on the respondent under s. 13ZL(5): 'Service of documents' of the CP(OROPO)A. See Appendix 13.13: 'Example of completed Form 9 – Application' of this chapter.

Suggested procedure for police commencing a civil proceeding in a Queensland court

PROCEDURE

When an officer seeks to commence a civil proceeding in a Queensland court, the applicant officer should:

- (i) liaise with the local Service prosecutor and the registrar of the relevant Queensland court to ensure the required originating process, forms and affidavits in relation to the civil proceeding are used and a suitable hearing date is obtained;
- (ii) complete the required originating process in accordance with the subsection titled 'Completing the originating process' of this section;
- (iii) complete an affidavit in relation to the application:
 - (a) see Appendix 13.14: 'Example of completed Form 46 – Affidavit by reporting officer' (for s. 694 of the PPRA); or
 - (b) see Appendix 13.15: 'Example of completed Form 46 – Affidavit by reporting officer' (for s. 13ZL of the CP(OROPO)A);

of this chapter, ensuring not to include hearsay evidence (see rule 430 of the UCPR);

- (iv) sign each and every page of their affidavit (see rule 432 of the UCPR);
- (v) where evidence of additional witnesses is to be relied upon to aid the application, ensure it is supplied in the form of an affidavit which has been sworn or affirmed in accordance with rule 432 of the UCPR. (Note – Officers are not to attach copies of previously obtained QP 0125: 'Statement of Witness' to the originating process in lieu of a properly sworn or affirmed affidavit);
- (vi) complete a Form 47: 'Certificate of Exhibit or Exhibits' for each document which is an exhibit and is mentioned in an affidavit. In completing a Form 47, ensure that a letter, number or other identifying mark is placed on the Form 47, on the relevant document and is referred to in the affidavit. For example, the first exhibit from Senior Constable Stephen James BROWN could be marked and referred to as 'SJB 1'. Each document is to be attached to the relevant Form 47. See rule 435 of the UCPR regarding exhibits. See also Appendix 13.14: 'Example of completed Form 46 – Affidavit by reporting officer' (for s. 694 of the PPRA) showing an example of a completed Form 47;
- (vii) file the originating process, including forms and affidavits with the registrar of the relevant Queensland court (see Chapter 2, Part 6: 'Where to start a proceeding' of the UCPR);
- (viii) serve a copy of the above court stamped documents on all persons listed as respondents in the originating process in accordance with the provisions of Chapter 4: 'Service' of the UCPR. Officers serving copies of the originating process and any affidavits are to complete an 'Affidavit of Service' and return it before the date of the hearing of the application to the relevant court. An example of a completed 'Affidavit of Service' is shown in Appendix 13.12: 'Example of completed Affidavit of Service' to this chapter;
- (ix) forward to the Service prosecutor all documentation in relation to the matter. A covering report should also be attached to the file showing the date of hearing; and
- (x) attend at the court at the nominated day and time. The officer starting the proceeding may be required to give evidence.

Completing the originating process

PROCEDURE

When completing an originating process, officers are to ensure:

- (i) the words 'a state-related person' is inserted after their name in the originating process;
- (ii) a business address for service, contact telephone numbers, fax numbers and email address of the applicant are entered (see rule 17 of the UCPR);
- (iii) if a solicitor is appointed to act for the applicant or plaintiff, the residential or business address of the plaintiff or business address of the applicant, the name and firm of the solicitor, the address of the solicitor's place of business, the solicitor's telephone number, fax number, email address and document exchange address are entered;
- (iv) all affected persons are named (see rule 26 of the UCPR);
- (v) the relief sought and the name and section of the Act under which the application is made is specified (see rule 26 of the UCPR);

- (vi) the day set for hearing the application is specified (see rule 26 of the UCPR);
- (vii) all affidavits to be relied on at the hearing are listed (see rule 26 of the UCPR); and
- (viii) at least two original copies of the process are signed (i.e. one for filing) (see rules 19 and 27 of the UCPR).

All forms are available from QPS Forms Select or the Queensland Courts website.

For service of an interstate originating process see s. 14.29.6: 'Interstate service of an originating process' of this Manual.

13.31 Deleted

13.32 Social media

The Service has developed policies and procedures relating to the use of social media, see the Use of Social Media Policy webpage on the Service Intranet. The QPS Use of Social Media Policy covers the following areas:

- (i) managing, monitoring and analysing social media accounts;
- (ii) approval and implementation procedures for the establishment and use of an official Queensland Police Service social media channel or site including 'myPolice' website blogs;
- (iii) alignment with Service responsibilities under the *Disaster Management Act*;
- (iv) use of social media for personal, non-work related purposes;
- (v) legislative and policy requirements and information management principles;
- (vi) governance structure roles and responsibilities across the Service; and
- (vii) risk management strategies for information security, defamation, privacy and intellectual property infringement.

Appendix 13.1 Suggested format for letter under Police Powers and Responsibilities Act

(s. 13.29.3)

Police Station
19 Knowsley Street
Coorparoo Qld 4151

20 July 2000

Ms Denise SMITH
4/56 Cyprus Street
Greenslopes Qld 4120

Dear Ms SMITH

As you are aware, on Saturday 3 July 2000, Senior Constable JOHNSON from this station had cause to investigate complaints of excessive noise issuing from your premises at the above address. As a result of those complaints, Senior Constable SMITH took possession of 1 Sanyo brand 3 in 1 stereo, serial number 885968.

This property is now stored at the Property Section, Upper Mount Gravatt Police Station, 1234 Logan Road, Upper Mount Gravatt.

The property has been in the possession of the Service since 3 July 2000 and you have not as yet arranged to collect it.

This letter is forwarded to advise you that should you fail to collect the property on or before 3 September 2000, the Commissioner of the QPS may order that this property be forfeited to the State.

You will receive no further notice in relation to this matter. Should you wish to retrieve the property please arrange for its removal prior to the above date.

Yours sincerely

I.J. PLANT
Sergeant 9999
Officer in Charge

Appendix 13.2 Written warning to interested person (s. 229K of the Criminal Code)

(s. 13.11.14)

Date:

To:

of:

Take notice that premises situated at (accurately describe the premises including the street address) of which you are an interested person in terms of s. 229K of the Criminal Code in that:

[outline how the person is an interested person in terms of subsection (1)]

You are hereby warned in accordance with subsection (5) of s. 229K of the Criminal Code that those premises are being used for the purpose of prostitution by two or more prostitutes.

For your information:

Subsection (2) of s. 229K provides:

A person who:

- (a) is an interested person in relation to premises; and
 - (b) knowingly allows the premises to be used for the purposes of prostitution by two or more persons
- commits a crime.

Subsection (4) provides:

A person allows premises to be used for the purposes of prostitution if the person:

- (a) knowingly permits the premises to be used for the purpose of prostitution; or
- (b) knowing that the premises are being used for the purposes of prostitution, fails to take every reasonable step to stop that use.

Subsection (7) provides:

If a person who is an interested person in relation to premises: –

- (a) is served with a warning under subsection (5) in relation to premises; or
- (b) otherwise has reasonable grounds to suspect that the premises are being used for the purposes of prostitution by two or more prostitutes;

the person may, by writing served on an occupier or user of the premises, require the occupier or user to leave the premises not later than seven days after the service of the notice and not return.

Subsection (8) provides:

A person who, without reasonable excuse, contravenes a requirement made of the person under subsection (7) commits a crime.

You are also warned that should you be convicted of any offence you may be liable to forfeit any or all of your tainted property to the Crown under the *Criminal Proceeds Confiscation Act 2002*.

Name, rank and registered number

Police station

Appendix 13.3 Notification under s. 799 of the Police Powers and Responsibilities Act 2000 of the starting of a proceeding

(s. 13.22.5)

01 November 2009

Director-General
Department of Employment, Economic Development and Innovation
Mineral House
GPO Box 2454
Brisbane QLD 4000

NOTIFICATION UNDER S. 799 OF THE POLICE POWERS AND RESPONSIBILITIES ACT 2000 OF THE STARTING OF A PROCEEDING

Pursuant to s. 799: 'Provisions restricting starting of proceeding' of the *Police Powers and Responsibilities Act 2000* you are hereby given notice of the starting of a proceeding against the following person for an offence against the *Explosives Act 1999/Explosives Regulation 2017*:

Name of person:	Edwin Albert Smith
Address:	12 Goodshake Place, Ipswich Q 4076
Date of birth:	20/11/1963
Offence the person has been charged with:	Section 34: 'Authority required to possess explosives' of the <i>Explosives Act 1999</i> .
Particulars of the offence:	That on the 1st day of January 2006 at West End in the Central Division of the Brisbane Magistrates Court District in the State of Queensland one Edwin Albert Smith possessed an explosive namely nitro glycerine whilst not being at that time the holder of an authority issued under the <i>Explosives Act 1999</i> authorising him to possess the said explosive.
Occurrence No.	Q06000777
The date of the charge:	Notice to appear served 1 January 2006.
Any other relevant information:	Advice and assistance was obtained from Explosives Inspector Steven Cooper concerning this matter and a statement has been requested from him. The explosive is currently being stored at the Government Explosive Reserve at Helidon.

It would be appreciated if you could please provide notice of receipt of this information to me referencing the occurrence number mentioned herein.

Respectfully,

Amanda Rheen
Senior Constable 99999
Cairns Police Station
Ph 40306000

Appendix 13.4 Deleted

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Appendix 13.5 Suggested format for advice regarding a complaint of an offence against s. 131A of the Anti-Discrimination Act 1991

(s. 13.26)



QUEENSLAND POLICE SERVICE

Station/establishment facsimile header



Date / / Facsimile

To: Commissioner
Anti-Discrimination Commission Queensland

Initial advice *

On / / a complaint was received at (place) which alleged an offence against s. 131A of the *Anti-Discrimination Act 1991* (the Act).

This matter has been recorded on the Queensland Police Records and Information Management Exchange (QPRIME)

and assigned occurrence number.....

* The complainant consents to their personal details being passed to the ADCQ.

Name

Address

Telephone

* The complainant does not consent to their personal details being passed to ADCQ.

Final advice *

Occurrence number:

The investigation has resulted in:

* the offence not being substantiated

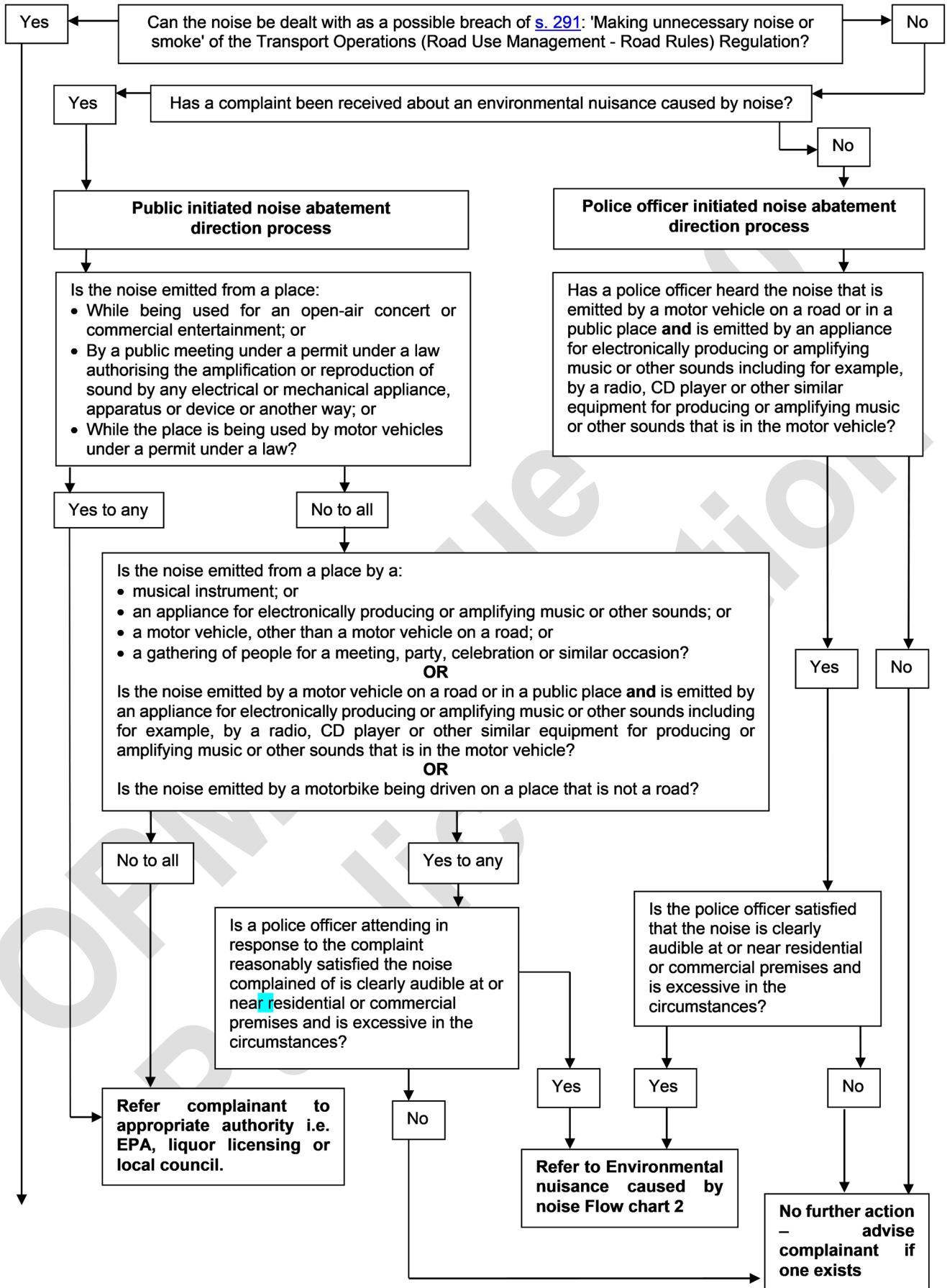
* insufficient evidence to commence a prosecution

* complaint withdrawn

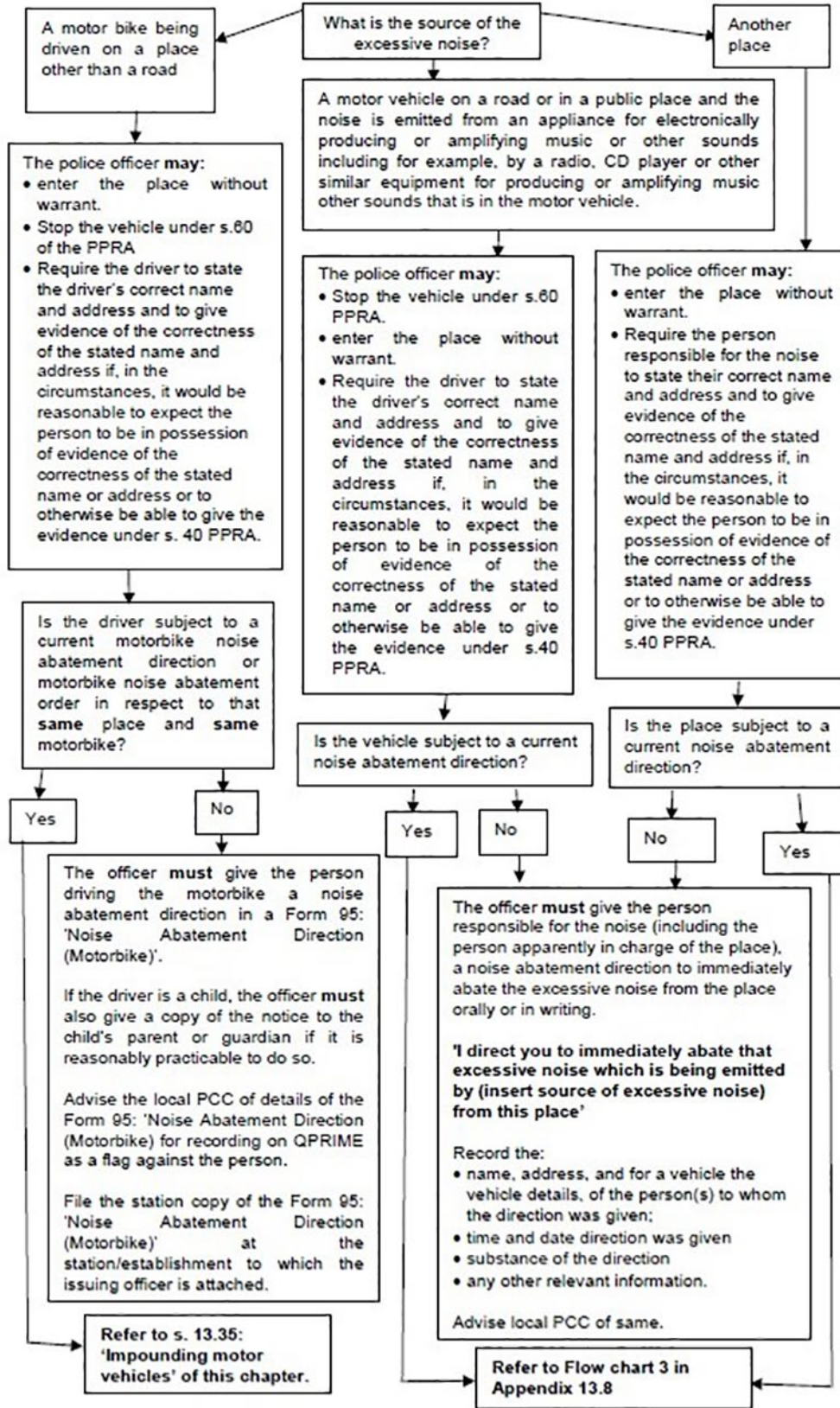
* proceedings commenced. First appearance at Magistrates Court
on / / at am/pm.

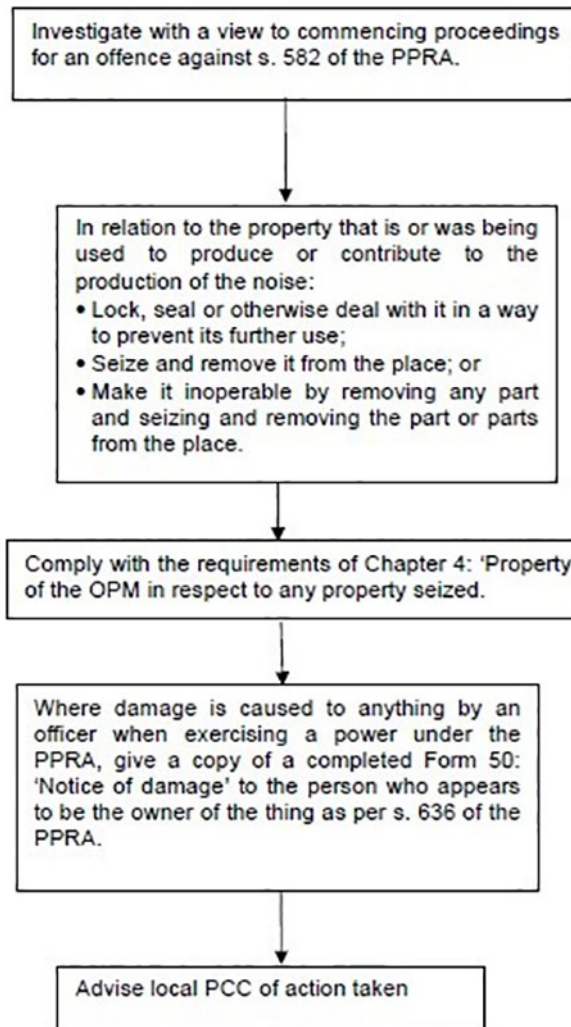
Further information may be obtained in accordance with s. 156 of the Act.

Appendix 13.6 Environmental nuisance caused by noise – flow chart 1



Appendix 13.7 Environmental nuisance caused by noise – flow chart 2



Appendix 13.8 Environmental nuisance caused by noise – flow chart 3

Appendix 13.9 Example of a completed Form 5 – Originating application

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown, a state-related person**

AND

Respondent: **Joseph Daniel Smith****ORIGINATING APPLICATION**

To the respondent: TAKE NOTICE that the applicant is applying to the Court for the following orders:

1. In the matter of section 694 of the *Police Powers and Responsibilities Act 2000*, an order for the delivery of one Malvern Star bicycle to the person appearing to the court to be the owner thereof, or if the owner cannot be ascertained, such order with respect to the property as the court deems appropriate.

This application will be heard by the Court at Mackay Magistrates Court on: 20 July 2001 at 10 am.

Filed in the Mackay Magistrates Court Registry on 20 May 2001:

Registrar: _____

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you. In addition you may before the day for hearing file a Notice of Address for Service in this Registry. The Notice should be in Form 8 to the Uniform Civil Procedure Rules. You must serve a copy of it at the applicant's address for service shown in this application as soon as possible.

On the hearing of the application the applicant intends to rely on the following affidavits:

1. Affidavit of Senior Constable S J Brown sworn 17 May 2001

If you intend on the hearing to rely on any affidavits they must be filed and served at the applicant's address for service prior to the hearing date.

If you object that these proceedings have not been commenced in the correct district of the Court, you must apply to the Court for dismissal of the proceedings.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 4 Hours

PARTICULARS OF THE APPLICANT:

Name: Senior Constable S J Brown

Applicant's business address: Mackay Police Station, 12 Brisbane St, Mackay

Address for service: Mackay Police Station, 12 Brisbane St, Mackay

Telephone: 9694444

Fax: 9572113

E-mail address: Brown.SJ@police.qld.gov.au

Signed: S J Brown

Description: Applicant

Dated: 20 May 2001

This application is to be served on: Joseph Daniel Smith of: 13 Gordon Street, Mackay

Appendix 13.10 Example of a completed Form 46 – Affidavit by reporting officer

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

Stephen James Brown of Mackay Police Station, 12 Brisbane Street, Mackay states on oath:

1. I am a Senior Constable of Police.
2. On 3 March 2001, I was on duty at the Mackay Police Station when a person I now know to be Daniel Francis BRYANT came into the station. He gave me a red Malvern Star bicycle and stated that he had found the bicycle while walking along Dansie Street, Mackay. He stated that the bicycle had been left behind an industrial rubbish bin in that street. He also told me that he did not wish to claim the bicycle should the owner not be located.
3. I took possession of the bicycle and lodged it in the property room at Mackay Police Station.
4. I subsequently made a check on the Queensland Police Service Property of Interest System, but was unable to locate the owner of the bicycle.
5. I subsequently made inquiries with a number of local bicycle retailers, but was unable to find any information which would assist in identifying the owner of the bicycle.
6. On 4 May 2001 a journalist employed by the Mackay Mercury newspaper visited the Mackay Police Station at the invitation of the officer in charge. The journalist gathered information in relation to the large amount of property on hand at the Mackay Police Station.
7. On 6 May 2001, an article appeared in the Mackay Mercury Newspaper titled 'Police Seek Help in Finding Owners'. The tenor of this article was that a large amount of property was on hand at the Mackay Police Station for which owners had not been located. As a result, police were seeking assistance from members of the public to locate owners. This article also advertised an open day at the Mackay Police Station to be held the following day, during which members of the public were invited to view the amount of property at the Mackay Police Station, and to identify any of their own property which had been lost or stolen.
8. On 7 May 2001, I was at the Mackay Police Station supervising the viewing of property by members of the public, when I was approached by a person now known to me as Joseph Daniel SMITH. This person pointed to the red Malvern Star bicycle previously mentioned and stated that it was his, and that it had been stolen from him some months prior.
9. I then questioned SMITH in an attempt to confirm the truth of his claim.
10. SMITH was unable to answer questions as to identification of the bicycle, such as from where he had purchased it, the purchase price, or the gearing configuration. SMITH also claimed that the bicycle had been stolen from him on or about 26 April 2001, whereas the bicycle had been in police possession since 3 March 2001.
11. I then advised SMITH that I did not believe that he was the true owner of the bicycle and that I was not prepared to give it to him.
12. I now make application to the court for an order for the delivery of the property mentioned to the person appearing to the court to be the owner thereof, or if the owner cannot be ascertained, to make such order with respect to the property as the court deems appropriate.
13. Exhibit SJB 1 to this affidavit is a photograph of a red Malvern Star bicycle which was handed to me by the male person Daniel Francis BRYANT at Mackay Police Station on 3 March 2001.
14. All the facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from sources and information and my knowledge and source of information appear on the face of this my affidavit.

Sworn by Stephen John Brown on 17 May 2001 at Mackay in the presence of:

S J Brown
DeponentA B Clerk
Justice of the Peace (Qual)

Appendix 13.11 Example affidavit in support of an application under s. 694 of the Police Powers and Responsibilities Act

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

CERTIFICATE OF EXHIBIT

Exhibit SJB 1 to the affidavit of Senior Constable S J Brown sworn 17 May 2001:

[Photograph as specified in example text of Appendix 13.10]

S J Brown
Deponent

A B Clerk
Justice of the Peace (Qual)

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Appendix 13.12 Example of completed affidavit of service

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: 1123/01

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

Peter Francis Jones of Mackay Police Station, 12 Brisbane Street, Mackay states on oath:

1. I am a Constable of Police.
2. On Thursday 19 July 2001 at 4.20pm at 13 Gordon Street, Mackay I served Joseph Daniel Smith by personal service with:
 - (i) a copy of the Originating Application in the matter of an application under section 694 of the *Police Powers and Responsibilities Act 2000*, for an order for the delivery of one Malvern Star bicycle to the person appearing to the court to be the owner thereof, or if the owner cannot be ascertained, such order with respect to the property as the court deems appropriate; and
 - (ii) a copy of the Affidavit of Stephen James Brown mentioned in that originating application.

Both documents having been previously filed at the Registry of Mackay Magistrates Court and marked with the registry number 1123/01.

3. Joseph Daniel Smith was identified to me by stating his name upon my request.

Sworn by Peter Francis Jones on 20 May 2001 at Mackay in the presence of:

P F Jones
DeponentA B Clerk
Justice of the Peace (Qual)

Appendix 13.13 Example of a completed Form 9 – Application

(s. 13.30)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY:
NUMBER:

Applicant:

AND

Respondent:

APPLICATION

TAKE NOTICE that the Applicant is applying to the Court for the following orders:

1. A Substituted Service Order under Section 57(5) of the Child Protection (Offender Prohibition Order) Act 2008 is authorised whereby the document for a –
Proposed Offender Prohibition Order
Offender Prohibition Order
Corresponding Order
Registered Corresponding Order
Notice of Application for a Temporary Order

may be served by - *(Set out the method of service required)*

2. This application be dealt with without notice to the respondent as reasonable attempts have been made to serve the respondent with the above documents without success.

This application will be heard by the Magistrates Court at Brisbane, 363 George Street.

On: *(date of hearing)* at *am/pm*.

Filed in the Brisbane Registry on *(date)*:

Registrar: *(registrar to sign and seal)*

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the application the applicant intends to rely on the following affidavits:

1. Affidavit of *sworn (date)*.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 5 minutes

Signed:

Description: Applicant

Dated:

Application filed on behalf of the Applicant Form 9 R. 32 (Name, address for service, telephone number and fax number of party filing document)

**Appendix 13.14 Example of completed Form 46 – Affidavit by reporting officer
(for s. 694 of the Police Powers and Responsibilities Act)**

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

CERTIFICATE OF EXHIBIT

Exhibit SJB 1 to the affidavit of Senior Constable S J Brown sworn 17 May 2001:

[Photograph as specified in example text of Appendix 13.10]

S J Brown
Deponent

A B Clerk
Justice of the Peace (Qual)

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Appendix 13.15 Example of completed Form 46 – Affidavit by reporting officer (for application for substituted service under s. 57 of Child Protection (Offender Reporting and Offender Prohibition Order) Act)

(s. 13.30)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY:
NUMBER:

Applicant:

AND

Respondent:

AFFIDAVIT

I,
(name of person making affidavit)

of

make oath and say that:

1. I am the applicant in this action
2. I have made reasonable attempts to personally serve the respondent with a document for a -
 - Proposed Offender Prohibition Order
 - Offender Prohibition Order
 - Corresponding Order
 - Registered Corresponding Order
 - Notice of Application for a Temporary Order

Details of attempted service:

3. It appears the above document will not able to be served without the making of a Substituted Service Order under Section 57(5) of the Child Protection (Offender Prohibition Order) Act 2008 in order to be able to serve the document on the respondent.

Details of substituted order requested:

4. As reasonable attempts have been made to serve the respondent with the above documents without success I request that this application be allowed without the giving of notice of the application to the respondent.


SWORN by the abovenamed deponent at on / /200 , before me:

Justice of the Peace

Deponent


Appendix 13.16 QPRIME functionality for capturing liquor seizures

Liquor Licensing Liquor Seizures



- QPRIME functionality for capturing liquor seizures.

Liquor Licensing Liquor Seizures



LIQUOR INCIDENT REPORTS for LIQUOR LICENSING INITIATIVE

Investigating Officer	Liquor Incident involving Licensed Premises	Details recorded for Liquor Incident Report	Return to Station	Create LIR entry in QPRIME Street Check - Liquor related	Forward task to Liquor Co-ordinator	
LEAPS Co-ordinator	Task received by LEAPS Co-ordinator	Reviewed for content and accuracy	Forward LIR to Liquor Licensing Division	Advise tactician or Crime Manager where appropriate	Manage reviews of Licensed Premises and Inspections	Take appropriate remedial action (serving letters/ breach)
Information management				Record created	Records Updated	

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report - Involve tab

Intelligence/Street check: Q0000000528 Liquor related / QPS / Liquor related Liquor

Intelligence/Street check

Intell check # [Q0000000528] Type [Liquor related]

Subject [Liquor] Objectives [Targeted patrol]

Reported time [20/08/2008 09:00] Occ. time [20/08/2008 09:00]

Source eval. [A. Completely reliable] Intelligence eval. [1. Report confirmed]

Handling code [Cancel No-Dissemination No]

Usability [Unknown] Status [Complete - released]

CLEVELAND, METROPOLITAN SOUTH, WYNNUM, DUNWICH, Stats area: 30550628

Summary [PPRA 553A. Liquor Seizure from 2 subjects in company with one other person]

Involve | Reports | Task s/flags | Officers | Property | Related | E-view

Type	Name	Involvement	Details
Address	2 BAYLY ST	Occurance address	DUNWICH, QLD, A
Person	UNDERWOOD, ROBERT	Street checked	24/05/1995 (53) M
Person	UNDERWOOD, PAUL ST	Child < 18, Subject, Street checked	04/07/1983 (25) M
Person	SMITH, JOHN [B]	Child < 18, Subject, Street checked	12/12/1987 (26) M

Ready

• Type will have new selection of 'Liquor related' for phase 2.2

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report - Reports tab

Intelligence/Street check: Q0000000528 Liquor related / QPS / Liquor related Liquor / 20/08/2008 9...

Intelligence/Street check

Intell check # [Q0000000528] Type [Liquor related]

Subject [Liquor] Objectives [Targeted patrol]

Reported time [20/08/2008 09:00] Occ. time [20/08/2008 09:00]

Source eval. [A. Completely reliable] Intelligence eval. [1. Report confirmed]

Handling code [Cancel No-Dissemination No]

Usability [Unknown] Status [Complete - released]

CLEVELAND, METROPOLITAN SOUTH, WYNNUM, DUNWICH, Stats area: 30550628

Summary [PPRA 553A. Liquor Seizure from 2 subjects in company with one other person]

Involve | Reports | Task s/flags | Officers | Property | Related | E-view | Occurance MO

Type	Author	Time	Notes
Intelligence/Street check report	44024CS1...	20/08/...	Occ# Q0000000528 Liquor Seizure Shadbroke Island 2008

Ready

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report – Tasks/flags tab

Intelligence/Street check: Q10000000528 Liquor related / OPS / Liquor related Liqu...

Intelligence/Street check

Ident check # 210000000528 Type Liquor related
 Subject Liquor Objectives Targeted patrol
 Reported time 20/08/2008 09:00 Occ. time 20/08/2008 09:00
 Source eval. A. Completely reliable Intelligence eval. R. Report confirmed
 Handling code 1. Avoid No/Dissemination No
 Usability Unknown Status Complete - released

CLEVELAND, METROPOLITAN SOUTH, WYNNUM, DUNWICH, Stats area 30550620
 Summary PPA 553A Liquor Seizure from 2 subjects in company with one other person

Involvement Reports Tasks/flags Officers Property Related Events

Number	Type	Status	Due	Initiated	Assigned
<input type="checkbox"/> T0700136147	Other	Closed	22/04/2008 15:18	84004261 BRIS...	84004261 BRIS...

Ready

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report - Officers tab

Intelligence/Street check: Q10000000528 Liquor related / OPS / Liquor related Liqu...

Intelligence/Street check

Ident check # 210000000528 Type Liquor related
 Subject Liquor Objectives Targeted patrol
 Reported time 20/08/2008 09:00 Occ. time 20/08/2008 09:00
 Source eval. A. Completely reliable Intelligence eval. R. Report confirmed
 Handling code 1. Avoid No/Dissemination No
 Usability Unknown Status Complete - released

CLEVELAND, METROPOLITAN SOUTH, WYNNUM, DUNWICH, Stats area 30550620
 Summary PPA 553A Liquor Seizure from 2 subjects in company with one other person

Involvement Reports Tasks/flags Officers Property Related Events

Classification	Name	Reg #	Ops	Classification	Unit
Assisting officer	BRISBIN, R.	84004	OPS	Police officer	BEENLE
Reporting station	BEENLEIGH STATION		OPS	Assignable	

Ready

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report - Property tab

Classification	Name	Pay #	Dues	Classification	Unit
Assisting officer	BRISBIN, R.	84004	QPS	Police officer	BEEDLE
Reporting station	BEEDLEIGH STATION		QPS	Assignee	

Property is only to be linked to the Street Check where the item/s are to be taken to a Property Section to be Stores Managed

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report - Assoc tab

Type	Name	To date	Notes
Student	REDLANDS BAY HIGH SCHOOL (BENER RD and POL.		Current student
Next of Kin	UNDERWOOD, ALAN 30/01/1941 (37) M B RATHGAE.		

Current state – the Assoc tab is used to link the School of the subject person and the Next of Kin of the Subject person

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report – Contacts/employment tab

In Phase 2.2 the Contacts/Employment tab is used to link the School of the Subject person and the Next of Kin of the Subject person

Type	Name/Employer	Entered/Start date	Expiry	Mc
Next of kin - Parent	SMITH, MARY JANE 15/09/1971	29/08/2008 09:56		
	REDLANDS HIGH SCHOOL	01/01/2008		En

Liquor Licensing Liquor Seizures



- Work processes – Intelligence/Street Check Report – Occurrence IDs – Misc file

Name	ID	Remarks
Misc file	STRACOE2008	ShedBroke Island Schooles 2008

Liquor Licensing Liquor Seizures



- New Intelligence/street check report

Intelligence/Street check: Q1000000520 Liquor related / QPS / Liquor related Lique...

Intelligence/Street check

Search check # Q1000000520 Type Liquor related

Subject Liquor Objectives Targeted patrol

Reported time 20/08/2008 09:00 Occ. time 20/08/2008 09:00

Source eval. A. Completely reliable Intelligence eval. T. Report confirmed

Handling code Criminal No./Discrimination No.

Usability Unknown Status Complete - released

CLEVELAND, METROPOLITAN SOUTH, WYNNUM, DUNWICH, State area 305506020

Summary PPRASSJA, Liquor Seizure from 2 subjects in company with one other person

Type	Author	Time	Status	Notes
Intelligence/Int...	#4004261 BRISBIN...	20/08/2008 11:00		Doc # Q1000000520

Ready

Liquor Licensing Liquor Seizures



- Intelligence/street check report

Intelligence/street check report: Intelligence/street check report / #4004261 BRISBIN...

Details

Occurrence Q1000000520 Liquor related Liquor Task

Author #4004261 BRISBIN, R Report time 20/08/2008 11:00

Entered by #4004261 BRISBIN, R Entered time 20/08/2008 11:45

Remarks Liquor Seizure (Inadmissible Island 2008)

Style Normal

Font Arial

PPRASSJA, Liquor Seizure

On DAY and DATE at INTERCEPTION ADDRESS, Stradbroke Island spoke to three male persons, UNDERWOOD and SMITH in possession of opened bottle of XXXX each which was seized etc...

Robert UNDERWOOD was in their company and stated _____

Subject persons advised that _____ or declined to provide the details of the person/s who supplied the liquor

Details of the persons (Involve tab entry) who supplied are _____

The Licensed Premises identified by the subjects is the XYZ Hotel at ADDRESS. The subject SMITH stated that he attended the Drive through of the Hotel at TIME, DATE and was served by DESCRIPTION etc

Ready

Liquor Licensing Liquor Seizures



▪ Liquor Seizures

- A solution for capturing data regarding Liquor Seizures.
- Fits within current QPRIME functionality and initiatives.
- Low cost.
- Training minimal.
- Benefit for Liquor Co-ordinators & Intelligence Officers.
- State-wide sharing of collected data.