



Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016



Queensland

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2016

A Bill

for

An Act to amend the *Australian Crime Commission (Queensland) Act 2003*, the *Fire and Emergency Services Act 1990*, the *Police Powers and Responsibilities Act 2000*, the *Weapons Act 1990* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Australian Crime Commission (Queensland) and Other Legislation Amendment Act 2016*. 4
5

Clause 2 Commencement 6

The following provisions commence immediately after the 7
commencement of the *Australian Crime Commission* 8
Amendment (National Policing Information) Act 2016 9
(Cwlth)— 10

(a) part 2; 11

(b) schedule 1, amendments of the *Child Protection* 12
(Offender Reporting) Act 2004, *Police Powers and* 13
Responsibilities Regulation 2012 and *Police Service* 14
Administration Act 1990; 15

(c) schedule 1, amendments 8 to 11 of the *Police Powers* 16
and Responsibilities Act 2000. 17

Part 2 Amendment of Australian 18 **Crime Commission** 19 **(Queensland) Act 2003** 20

Clause 3 Act amended 21

This part amends the *Australian Crime Commission* 22
(Queensland) Act 2003. 23

Clause 4	Amendment of s 11 (Quorum at Board meetings)	1
	Section 11, ‘7 Board members’—	2
	<i>omit, insert—</i>	3
	9 Board members	4
Part 3	Amendment of Fire and Emergency Services Act 1990	5 6
Clause 5	Act amended	7
	This part amends the <i>Fire and Emergency Services Act 1990</i> .	8
Clause 6	Insertion of new s 58D	9
	After section 58C—	10
	<i>insert—</i>	11
	58D Power to require information about identity of occupier	12 13
	(1) This section applies if a person alleges to an authorised fire officer, or an authorised fire officer reasonably suspects, a contravention of this Act or the <i>Building Act 1975</i> , chapter 7 or 7A has been committed in relation to premises.	14 15 16 17 18
	(2) An authorised fire officer may require any of the following persons to give the authorised fire officer information that will identify or help identify an occupier of the premises—	19 20 21 22
	(a) a government entity;	23
	(b) an occupier of the premises;	24
	(c) a person who may reasonably be expected to give the information.	25 26
	(3) A person must comply with a requirement under subsection (2), unless the person has a reasonable	27 28

[s 7]

excuse for not complying.	1
Maximum penalty—20 penalty units.	2
(4) If the person is an individual, it is a reasonable	3
excuse for the person not to comply with a	4
requirement under subsection (2) if complying	5
with the requirement might tend to incriminate the	6
person.	7

Part 4	Amendment of Police Powers	8
	and Responsibilities Act 2000	9

Clause 7	Act amended	10
	This part amends the <i>Police Powers and Responsibilities Act</i>	11
	<i>2000</i> .	12
	<i>Note—</i>	13
	See also the amendments in schedule 1.	14

Clause 8	Amendment of s 32 (Prescribed circumstances for	15
	searching vehicle without warrant)	16
	Section 32(a), after ‘weapon’—	17
	<i>insert—</i>	18
	, knife	19

Clause 9	Replacement of ss 35 and 36	20
	Sections 35 and 36—	21
	<i>omit, insert—</i>	22
	35 Use of detection dogs in particular places	23
	(1) A handler may, without warrant, use a drug	24
	detection dog to carry out drug detection in	25
	relation to a relevant person or thing.	26
	(2) A handler may, without warrant, use a firearms	27

- and explosives detection dog to carry out
explosives detection in relation to a relevant
person or thing.
- (3) This section applies despite any other law.
- (4) In this section—
relevant person or thing means—
- (a) a person who is in a public place; or
- (b) a person who is in the immediate vicinity of,
is about to enter, is in, or is leaving, a place
at which an event is being held; or
- (c) a person who is about to enter, is in, or is
leaving, licensed premises; or
- (d) a person who is about to enter, is in, or is
leaving, a tattoo parlour; or
- (e) a thing in a place mentioned in paragraph
(a), (b), (c) or (d), or on land associated with
the place, whether or not the thing is in the
physical possession of a person.

36 Police officers and detection dogs may enter and remain on particular places

- (1) For carrying out drug detection under section
35(1), a drug detection dog, the drug detection
dog's handler and any other police officer may
enter and remain on a relevant place.
- (2) For carrying out explosives detection under
section 35(2), a firearms and explosives detection
dog, the firearms and explosives detection dog's
handler and any other police officer may enter and
remain on a relevant place.
- (3) For subsections (1) and (2), the power to enter and
remain on a relevant place includes power to enter
and remain on land associated with the relevant
place.

[s 10]

	<i>Example of land associated with a relevant place—</i>	1
	land on which car parking is provided for patrons of the relevant place	2 3
(4)	This section applies despite any other law.	4
(5)	In this section—	5
	<i>relevant place</i> means—	6
(a)	a public place; or	7
(b)	a place at which an event is being held; or	8
(c)	licensed premises; or	9
(d)	a tattoo parlour.	10
Clause 10	Insertion of new s 365A	11
	After section 365—	12
	<i>insert—</i>	13
	365A Arrest without warrant upon instruction of another police officer	14 15
(1)	It is lawful for a police officer (the <i>arresting officer</i>), without warrant, to arrest a person if instructed to do so by another police officer (the <i>instructing officer</i>).	16 17 18 19
(2)	However, subsection (1) does not apply unless—	20
(a)	the instructing officer reasonably suspects the person has committed or is committing an offence; and	21 22 23
(b)	the arrest of the person is reasonably necessary for 1 or more of the reasons mentioned in section 365(1) or the reason mentioned in section 365(2); and	24 25 26 27
(c)	if the person is a child—it is lawful for the instructing officer to arrest the child under section 365(3); and	28 29 30

	(d) it is not practicable for the instructing officer to personally arrest the person; and	1 2
	(e) it is not practicable, because of an emergency situation or other particular circumstances, for the arresting officer to personally form the suspicion mentioned in section 365(1), (2) or (3) and to lawfully arrest the person under section 365(1), (2) or (3).	3 4 5 6 7 8 9
	(3) If a person is arrested under subsection (1), the instructing officer must—	10 11
	(a) make a record of the instruction and the reasons under subsection (2) for giving the instruction; and	12 13 14
	(b) take reasonable steps to give a copy of the record to the arresting officer.	15 16
	(4) Also, the instructing officer must inform the arresting officer at the earliest reasonable opportunity if the instructing officer stops holding the suspicion mentioned in subsection (2)(a).	17 18 19 20
	(5) A failure to give a copy of the record mentioned in subsection (3)(b) to the arresting officer does not affect the lawfulness of the arrest.	21 22 23
	(6) In this section—	24
	<i>emergency situation</i> see the <i>Public Safety Preservation Act 1986</i> , schedule.	25 26
Clause 11	Amendment of s 391 (Information to be given to arrested person)	27 28
	Section 391(3)—	29
	<i>omit, insert—</i>	30
	(3) Before the person is released from police custody, a police officer must give the person, in writing—	31 32

[s 12]

	(a) the name, rank and station of the arresting officer; and	1 2
	(b) if the person was arrested under section 365A(1)—the name, rank and station of the instructing officer.	3 4 5
Clause 12	Replacement of s 439 (Admissibility of records of questioning etc.)	6 7
	Section 439—	8
	<i>omit, insert—</i>	9
	439 Admissibility of evidence when noncompliance with requirements	10 11
	(1) If a court considers section 436 or 437 has not been complied with or there is not enough evidence of compliance, the court may, despite the noncompliance or insufficient evidence of compliance, admit evidence to which section 436 or 437 applies.	12 13 14 15 16 17
	(2) However, the court may admit the evidence only if, having regard to the nature of and the reasons for the noncompliance or insufficient evidence of compliance, and any other relevant matters, the court is satisfied, in the special circumstances of the case, admission of the evidence would be in the interests of justice.	18 19 20 21 22 23 24
Clause 13	Insertion of new ch 24, pt 15	25
	Chapter 24—	26
	<i>insert—</i>	27

Part 15	Transitional provision	1
	for Australian Crime	2
	Commission	3
	(Queensland) and	4
	Other Legislation	5
	Amendment Act 2016	6

- | | |
|---|----------------------------|
| 878 ACC database | 7 |
| (1) If the context permits, a reference to the CrimTrac database in a document may be taken to be a reference to the ACC database. | 8
9
10 |
| (2) Anything lawfully included under this Act or another Act, before the commencement, in the CrimTrac database is taken to be lawfully included in the ACC database and may be used under this Act or another Act. | 11
12
13
14
15 |

- | | | |
|------------------|--|----------------|
| Clause 14 | Amendment of sch 6 (Dictionary) | 16 |
| (1) | Schedule 6, definitions <i>CrimTrac</i> , <i>CrimTrac database</i> and <i>explosives or firearms detection dog</i> — | 17
18 |
| | <i>omit.</i> | 19 |
| (2) | Schedule 6— | 20 |
| | <i>insert—</i> | 21 |
| | <i>ACC database</i> means a database kept by the ACC containing information about the results of DNA analyses. | 22
23
24 |
| | <i>firearms and explosives detection dog</i> means a dog trained to detect firearms or explosives. | 25
26 |
| (3) | Schedule 6, definition <i>enforcement act</i> , paragraph (a)(ii) — | 27 |
| | <i>omit, insert—</i> | 28 |

[s 15]

(ii)	by using a firearms and explosives detection dog to carry out explosives detection under chapter 2, part 3;	1 2 3
(4)	Schedule 6, definition <i>enforcement act</i> , paragraphs (b)(iii) and (c)(iii) —	4 5
	<i>omit, insert—</i>	6
(iii)	by using a firearms and explosives detection dog to carry out explosives detection under chapter 2, part 3;	7 8 9
(5)	Schedule 6, definition <i>search</i> —	10
	<i>omit, insert—</i>	11
	<i>search—</i>	12
(a)	includes frisk search a person; and	13
(b)	does not include the use of a drug detection dog to carry out drug detection under chapter 2, part 3, even if the drug detection dog physically intrudes onto a person or the clothing of a person; and	14 15 16 17 18
(c)	does not include the use of a firearms and explosives detection dog to carry out explosives detection under chapter 2, part 3, even if the firearms and explosives detection dog physically intrudes onto a person or the clothing of a person.	19 20 21 22 23 24

Part 5	Amendment of Weapons Act 1990	25 26
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Clause 15	Act amended	27
	This part amends the <i>Weapons Act 1990</i> .	28

Clause 16	Amendment of s 51 (Possession of a knife in a public place or a school)	1 2
	Section 51(7)—	3
	<i>insert—</i>	4
	<i>public place</i> includes a vehicle that is in or on a public place.	5 6
Clause 17	Amendment of s 57 (Particular conduct involving a weapon in a public place prohibited)	7 8
	Section 57(1)—	9
	<i>insert—</i>	10
	<i>public place</i> includes a vehicle that is in or on a public place.	11 12
Part 6	Minor and consequential amendments	13 14
Clause 18	Legislation amended	15
	Schedule 1 amends the legislation it mentions.	16

Schedule 1	Minor and consequential amendments	1 2
	section 18	3
	Animal Management (Cats and Dogs) Act 2008	4
1	Schedule 2, definition <i>government entity dog</i>, examples, second dot point, ‘explosives detection dog’—	5 6
	<i>omit, insert—</i>	7
	firearms and explosives detection dog	8
	Child Protection (Offender Reporting) Act 2004	9
1	Section 68(3)(d)—	10
	<i>omit, insert—</i>	11
	(d) the Australian Crime Commission established under the <i>Australian Crime Commission Act 2002</i> (Cwlth), section 7;	12 13 14
	Police Powers and Responsibilities Act 2000	15
1	Section 34, definition <i>detection dog</i>, paragraph (b), ‘an explosives detection dog’—	16 17
	<i>omit, insert—</i>	18
	a firearms and explosives detection dog	19

2	Section 34, definition <i>explosives detection</i>, ‘an explosives detection dog’—	1
	<i>omit, insert—</i>	2
	a firearms and explosives detection dog	3
3	Section 34, definition <i>explosives detection</i>, ‘the explosives detection dog’—	4
	<i>omit, insert—</i>	5
	the firearms and explosives detection dog	6
4	Section 35(2), ‘an explosives detection dog’—	7
	<i>omit, insert—</i>	8
	a firearms and explosives detection dog	9
5	Section 36(2), ‘an explosives detection dog’—	10
	<i>omit, insert—</i>	11
	a firearms and explosives detection dog	12
6	Sections 36(2), ‘the explosives detection dog’s handler’—	13
	<i>omit, insert—</i>	14
	the firearms and explosives detection dog’s handler	15
7	Section 39, ‘an explosives detection dog’—	16
	<i>omit, insert—</i>	17
	a firearms and explosives detection dog	18
8	Section 492, ‘to CrimTrac’—	19
	<i>omit, insert—</i>	20
	to the ACC	21

Schedule 1

9	Section 492(1), ‘CrimTrac database for the purpose of CrimTrac’—	1
	<i>omit, insert—</i>	2
	ACC database for the purpose of the ACC	3
10	Section 492(3), ‘CrimTrac’—	4
	<i>omit, insert—</i>	5
	the ACC	6
11	Sections 493, 526, 527, 528, 529, 532 and 533, ‘CrimTrac database’—	7
	<i>omit, insert—</i>	8
	ACC database	9
		10
		11
		12
		13
		14
		15
1	Section 13(1), ‘CrimTrac database’—	16
	<i>omit, insert—</i>	17
	ACC database	18
2	Section 14(b), ‘CrimTrac’—	19
	<i>omit, insert—</i>	20
	the ACC database	21

Police Service Administration Act 1990	1
1 Section 1.4, definition <i>CrimTrac</i>—	2
<i>omit.</i>	3
2 Section 1.4—	4
<i>insert—</i>	5
<i>ACC</i> means the Australian Crime Commission established under the <i>Australian Crime Commission Act 2002</i> (Cwlth), section 7.	6 7 8
3 Sections 10.2AA, definition <i>relevant agency</i>, 10.2BA(1)(a), 10.2G, definition <i>IPSP</i>, paragraph (a) and 10.2S, definition <i>approved agency</i>, paragraph (a), ‘<i>CrimTrac</i>’—	9 10 11
<i>omit, insert—</i>	12
the ACC	13
4 Section 10.2H—	14
<i>omit.</i>	15
5 Schedule, ‘<i>CrimTrac</i>’—	16
<i>omit, insert—</i>	17
the ACC	18