



NSW Police Force

Drug Detection Dog Deployment Standard Operational Procedure

NSWPF Dog and Mounted Command – Dog Unit

Essential Summary

This document is for the information and use of police requesting use and deploying with Drug Detection Dogs – it contains all required information to provide assistance and support to improve understanding and set clear expectations when working with a Drug Detection Dog team(s).

Drug Detection Dogs can be deployed through intelligence based taskings, responding to calls for assistance (via VKG) or via request for planned operations by Police Area Commands, Police Districts or other Business units.

The following is a guide to document contents

- Purpose of document with relevant legislative reference
- Requesting Drug Detection Dogs via Blue Portal (for all events and deployments)
- Requesting Drug Detection Dogs for reactive assistance
- Deploying with Drug Detection Dogs (requirements and expectations)
- Offences committed against Drug Detection Dogs (hinder / assault)
- Drug Detection Dog Handler Briefings – standard and major events

Document Control Sheet*Document Properties*

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1. Purpose and/or Scope

These Standard Operating Procedures were originally developed on the introduction of Drug Detection Dogs into the NSW Police Force and have undergone reviews, to ensure they provide contemporary guidance on current procedures which are required to be adhered to by Drug Detection Dog Handlers and officers of the NSW Police Force seeking their assistance. Through compliance with these procedures and associated legislation contained in the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA), the Dog and Mounted Command will be able to continue providing a professional and specialised capability to support the operational environment in prohibited drug detection.

The Drug Detection Dog Deployment Standard Operating Procedures complement other NSW Police policy and procedures outlined in the *Guidelines for NSWPF regarding the management of police operations at Music Festivals in NSW* and *NSW Police Force Person Search Manual* – see below links.

When these procedures are applied in conjunction with other legislation and NSWPF Policy, it will support the organisation's ability to meet the Commissioner's key result areas of reducing crime, maintaining public safety, engaging the community, and enhancing capability.

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2. Procedures

Drug Detection Dogs can be deployed via request (utilising blue portal system) for pre-planned events and via reactive response in the field (via VKG or Dog Unit Supervisor request). All deployment of Drug Detection Dogs will be assessed through intelligence provided on Blue Portal request or direct to the officer (dependent on deployment).

Ultimately the deployment of a Drug Detection Dog – with consideration to supporting intelligence and safety considerations - can be reviewed and determined by the handler at the time of deployment.

Handlers can be deployed in various capacities People Screening Deployments

- Licensed Premises Deployments
- Music Festivals and Dance Parties (sporting events, artistic performance, parade or other entertainment – as per LEPRA Part 11, Division 2 – Section 148)
- Kings Cross Precinct
- Tattoo Parlours
- People Screening by General Warrant (LEPRA Part 11, Division 2 – Section 149)
- Vehicle Search
- Building Search – search warrants
- Property Screening (for example – mail centres)

2.1 Utilising a Drug Detection Dog – information for support police

Problem identification

This is often the catalyst for contemplating the planning and execution of a drug detection dog operation. Problem identification incorporates drug supply, distribution, possession, or administration, and relates to areas such as a single street, a length of roadway between towns or a geographical area (such as CBD or mall) defined by specific streets and/or landmarks.

The aim of the Drug Detection Dog Legislation gives a “General Authority to use a Drug Detection Dog” – This is recorded in LEPRA (see *annexure 1*)

Dog Unit Request for Assistance (RFA) - Blue Portal

All requests for drug detection dogs are recorded on the NSW Police Force ‘Blue Portal’ system. *Access Blue Portal via the icon appearing on the home page of the NSWPF computer system.*

Upon approval being attained from your Commander, a ‘Request for Assistance’ (RFA) should be submitted electronically via Blue Portal and submitted to the Coordination Unit, Dog and Mounted Command as soon as possible.

Any requests for a drug detection dog made within 14 days of the operation date, MUST be followed up with a call to the Dog and Mounted Command to discuss the proposed deployment and the dog resource availability. If you have any issues with your request – you can contact the Dog Unit Coordination Unit during business hours s.74

The responsibility of planning and running any operation that involves a request for a drug detection dog remains with the requesting PAC / PD or business unit. The local Authorising Officer listed on the Blue Portal must ensure that the operation is appropriately planned for, staffed, risk assessed and is sound in terms of its intelligence material. The authoriser should only authorise the RFA if they believe that the use of a drug detection dog resource is warranted and would be of benefit to the operation based on their specific knowledge of the proposed operational plan, the crime issue or event and any local intelligence material.

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Reactive requests

For an urgent or “real time” request for a drug detection dog (operations, search warrants, vehicle stops), contact can be made via police radio, alternatively

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- contact 6pm to 6am - via VKG / State Coordinators requesting supervisor or on call officer

General information

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The Dog Unit Coordinators review all RFAs and prioritise the requests against the available resource. The dog resource allocated to a request may be cancelled at short notice as requests of a greater priority present. Alternate taskings should be available for staff on proactive operations.

Drug Detection Dogs are a scarce resource and all requests for assistance must be based on recent, relevant and location specific drug intelligence.

T1(f) T2(b)

2.2 Completion of Operational Orders – planned events

Preparation of operational orders for planned drug detection dog deployments is completed by officers from the PAC/PD or business unit where the Drug Detection operation is being conducted. This includes a risk assessment on the identified risks and mitigation strategies. A copy of the operational orders and risk assessment is to be given to the dog handler attending the operation prior to the Operational Briefing.

In relation to operations being undertaken for an event defined as a Music Festival, Police should follow the processes as defined in the *Guidelines for NSWPF regarding the management of police operations at Music Festivals in NSW*.

T1(f) T2(b)

General Warrants

Legislation regarding the use of drug detection dogs dictates the situations and locations where deployments can occur without an application being made to the court. Police may require a warrant obtained under section 149 of LEPRA to authorise the use of a drug detection dog in an operational setting. This is more common in planned operations within 'open' public areas. To acquire such a warrant, police must apply to an 'authorised officer' (pursuant to Division 2, Part 11 of LEPRA), usually the Local Court Registrar. Applications are made through the completion of a 'Form 7 – Application for Warrant to Use Dog to Carry out General Drug Detection / record of application'

All applications for a warrant of this nature must be supported with contemporary and reliable information and / or intelligence to support its consideration by the Local Court Registrar. If the warrant will relate to the 'covert' use of a drug detection dog, meaning that the dog handler will operate in plain clothes, this detail must be included in the warrant application.

As with any warrant – there are reporting requirements upon completion via Form 27 – Report to eligible issuing officer about the execution of warrant (other than covert search warrant). T1(f) T2(b)

T1(f) T2(b)

2.3 Deployment Briefings

For planned operations being undertaken with the use of a drug detection dog, immediately prior to the execution of operation, a briefing is to be conducted involving all personnel who will be deployed with the Drug Detection Dog Team.

In relation to briefings being undertaken for an event defined as a Music Festival, Police should follow the briefing delegations and guidelines as defined in the *Guidelines for NSWPF regarding the management of police operations at Music Festivals in NSW*.

It is preferable that the briefing is conducted by the Operation Commander or a suitable officer delegated to perform the briefing on their behalf. The briefing should cover all aspects in relation to the execution phase. Larger drug detection dog operations can use multiple briefings to cover different operation phases i.e.: one for covert phase and another for overt phase.

Operation briefings should follow and review all parts of the Operational Orders, so all aspects are clear to all involved officers, irrespective of operational orders having been distributed to them. Electronic methods such as power point presentations may assist with the delivery of the briefing.

At the conclusion of the briefing, an opportunity should be allowed for questions to be asked to ensure all police involved are aware of their roles, responsibilities and the expectations on them during the deployment. At the conclusion of the operation briefing the detection dog handler will conduct a further Drug Detection Dog Handler briefing.

Handler Briefing (people screening deployments)

The Dog Unit has developed a pre-operation briefing checklist. A Police Dog Handler will provide a briefing at the commencement of the drug detection dog operation. This briefing includes relevant information when deploying with a Drug Detection Dog and reinforces legislative requirement and expectations of support police.

T1(f) T2(b)

For non-people screening deployments (search warrants, vehicle search operations) the handler will brief the officer in charge or case officer as to the requirements and expectations.

Briefing considerations around Drug Health Service Areas and Cultural Diversity

If the area of a drug detection dog operation encompasses any health service facilities relevant to drug users, such as a Methadone Clinic, Needle Exchange, Injecting Rooms, etc, the operation briefing should include this information. Any drug detection dog operation in proximity to such areas should be executed in a manner that does not impede or prevent any person from attending such facilities.

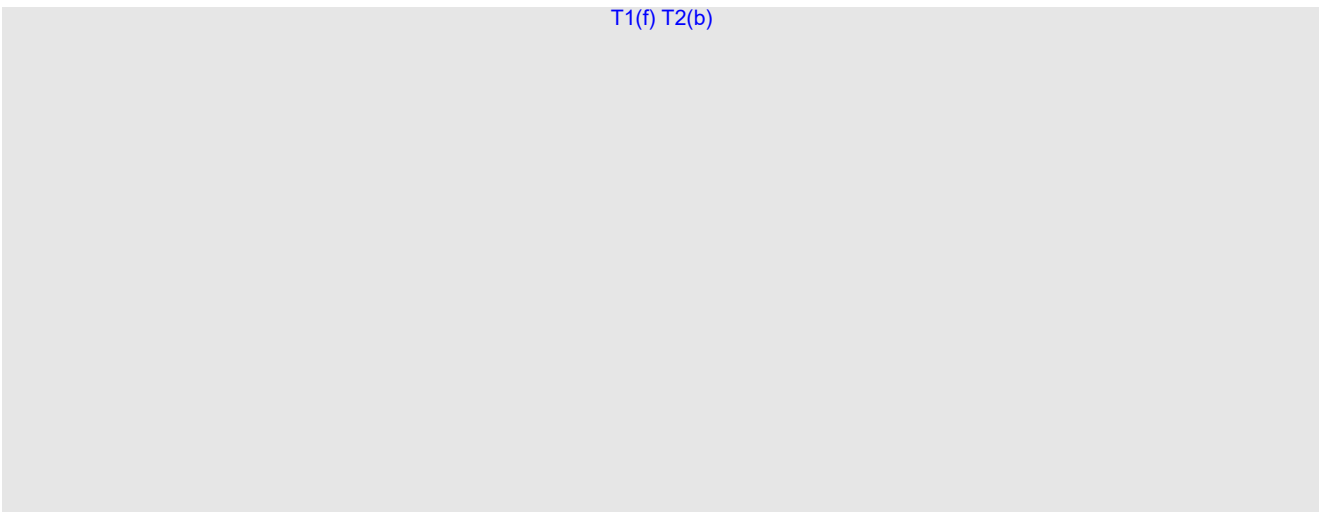
Police are reminded that the use of drug detection dogs near a Drug Health Facility may adversely affect harm minimisation strategies. This issue should also be addressed in operational orders.

Briefings should also include, where relevant, reference to population profiles and the impact that cultural diversity may have on the operation (e.g. the need to carry mobile phones in the likelihood that an interpreter is required, or the need to address undue anxiety caused by the presence of a detection dog). The briefing should highlight the necessity for handlers to use interpersonal and communication skills to explain procedures to those with who they interact with, especially where there is a need to reassure people that the detection dog will not touch or harm them.

2.4 Execution Phase – support staff

During the Execution Phase of the drug detection dog operation, Police are reminded that the safety of the dog handler and detection dog is paramount. It is for this reason that the operation Commander should allocate an officer or officers to accompany and assist the dog team. At no time during the operation (unless by prior arrangement) are the dog handler and detection dog to be left alone.

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2.5 Execution Phase – handler / dog team requirements

Whilst conducting drug detection dog duties, the dog handler must abide by certain legislative guidelines relating to the conduct and control of the drug detection dog.

Section 150 of LEPRA sets out these guidelines whereby the handler must:

- Take all reasonable precautions to prevent the detection dog touching a person;
- Keep the detection dog under control; and
- Only utilise detection dogs for general drug detection as part of a Covert Operation, if it is authorised by a warrant

When deployed to overt operations, police dogs will wear a reflective harness to ensure the dogs are visible to both police and to members of the public. The harness will ensure that Work Health and Safety requirements are complied with and make it obvious to observers that the dog is an operational police dog.

2.6 Execution Phase – police observations

Where possible, Police Officers should assess any apparent fear of dogs exhibited by those exposed to detection searches. Where fear is evident or suspected, officers should clearly explain the detection protocol to allay the fear or concerns of the person.

With reference to the dog handler briefing - police are reminded to be observant of persons within the operational footprint:

- Be observant of people entering the venue, be aware of attempts to avoid the dog teams as well as those attempting to discard or ingest items.
- You can stop and speak to people if you have reasonable grounds based on what you observe – do not just rely on the dogs alone.
- Be observant of people you believe are showing signs of excessive drug and / or alcohol consumption. If you have concerns about the health of a person you should take immediate steps to seek medical assistance.

Where a police officer reasonably believes the health of a person is at risk, seeking medical assistance should always take priority over any investigative process.

2.7 Drug Detection Dog Indication and Cautioning

The drug detection dog is trained to indicate the presence of the scent of a prohibited drug in the airspace surrounding a person by offering a passive response. The handler will determine their dog's indication. On deeming the drug detection dog has made an indication, the dog handler will introduce himself/herself to the person to whom the indication has been made and comply with the safeguard pursuant to section 201 of LEPR.

The handler will introduce themselves to a person to whom an indication is made – they will use a format similar to the following:

I am Constable from the Dog Unit – this is a drug detection dog

(introduction of Body Worn Video (BWV))

The dog has indicated the presence of prohibited drugs in the free air space around you.....
followed by an Official Caution

The handler will then question the person as to the presence of prohibited drugs before passing them over to support police – they will also provide any critical information to support police for them then to continue their enquiries. Following the administration of the caution, any answers provided to police by the person are admissible as evidence in court.

Should circumstances change and the situation escalates – the handler will request the support police to officially caution on their behalf.

It is important to ensure that the person being cautioned is able to understand their rights and responsibilities. Where the person does not appear to understand the caution due to a language barrier, it may be necessary to use a telephone interpreter (in the first instance) to facilitate communication – see Police Handbook – Interpreters and Translators (section)

*The **Telephone Interpreter Service contact number is 131 450.***

The Translating and Interpreting Service (TIS) is the preferred telephone interpreting service for NSW Police. TIS has a 24 Hour National Police Priority Line which is 1300 655 010. The general public access line is 131 450.

In the event it is believed a person does not understand on the basis of being considered a vulnerable person, then attempts to obtain the assistance of a suitable support person should be implemented.

2.8 Searching of Suspects

Police are reminded the indication by the drug detection dog alone does not constitute 'reasonable grounds' to conduct a search upon an individual.

Reasonable grounds must be formed through an officer's own observations of the person and situation together with any disclosures by the person or other known information. When a police officer has formed such reasonable grounds from this initial interaction with a person and decides to search such a person, it is essential the instructions as outlined in the NSW Police Force Person Search manual are adhered to at all times. This extends to determining whether a person search or strip search is to be undertaken.

When deciding to exercise their powers to search, Police should be fully conversant with the definitions of what constitutes a person search or strip search under the NSW Police Force Person Search Manual. Police should maintain sufficient records of their observations and other information used to justify their search and keep appropriate records relating to this.

2.9 Recording of Personal Details

Part 3 of LEPRA outlines the specific situations where there is a legislative requirement for a person to disclose their identity at the request of a police officer. Generally, this relates.

- *If the officer suspects on reasonable grounds that the person may be able to assist in the investigation of an alleged indictable offence because the person was at or near the place where the alleged indictable offence occurred, whether before, when or soon after it occurred.*
- *If the officer proposes to give a direction to the person in accordance with Part 14 for the person to leave a place*

With this in mind, whilst the identity of the person subject of the drug detection dog indication may be requested, there is no legislative requirement for a person to provide their details where a search has occurred and no offence has been identified. If requesting the personal details of a person where no offence has been committed, they should be informed how those details are to be used, namely the making a record of the incident upon WebCOPS.

Police are not to obtain personal identification details during a search of a person's wallet or other items by using personal identification (such as a driver's licence) unless they have explicit and informed consent to do so. If a person declines to provide or consent to their personal details being recorded, the search is to be recorded on WebCOPS through using existing generic CNI numbers

T1(f) T2(b)

Police are also reminded that they have no general power to detain a person for a name check on WebCOPS if they do not suspect the person has committed an offence. If after a search is completed, no evidence of drugs is found or any other offence is detected, police should immediately inform the person searched that they are free to leave.

2.10 WebCOPS Records

The *NSW Police Force Crime Recording Standard* provides the organisations position on the recording and classification of crime and other incidents on WebCOPS. Any interaction with a person following a drug detection dog indication which involves the use of police powers should be recorded onto the COPS system – the following sections relate to person search and drug detections:

Section 7.3.2. Powers – Person Search

Section 7.3.3. Drug Detection

Section 7.3.5. Recording Searches

Police must ensure they record in the WebCOPS event ALL relevant information that leads to the establishment of reasonable cause to stop, search and detain any person during the Drug detection dog deployment. The NSW Police Force Crime Recording Standard relevantly states the narrative should justify the use of powers and contain information, which is relevant, accurate and capable of withstanding external scrutiny.

It is imperative that WebCOPS events created for drug detection dog operations or where a drug detection dog is utilised (person search, vehicle search or search warrant) are correct prior to being verified.

Supervisors at the PAC / PD level play an important part in the quality review of COPS entries and ensuring all relevant fields have been successfully completed. As a guide, supervisors should ensure that the following is checked when verifying COPS events:

Person Search event:

- When no drugs / object located - incident must be Person Search (no item/object found)
- Where drugs are located both a Drug Detection and Person Search incident are completed
- Ensure correct handler links - via pop-up list of assignment numbers – listing handlers
- In the primary reason for search it must be selected: ‘Suspected possession of Illegal drug’
- You will then be prompted: ‘Was a detector dog the main reason for detection’ () Y / N
- If Yes – you will be prompted: ‘Did the POI have any *recent contact with drugs and/or drug users?’ () Y / N

*** Information relating to any recent contact with drugs and / or drug users comes from police asking questions of the person to establish if there has been any such contact ***

Ensure BWV is requested from the relevant Dog Handler. A request should ordinarily be made via email. Such email should also provide the relevant WebCOPS reference, time stamp and description of the person.

Search Warrant event:

When utilising a drug detection dog and drugs are located, a Drug Detection Incident must be created in addition to the Execution of search warrant.

When entering the Drug seized information – there is a section ‘Detector Dog Used’ () Y/N – Yes should be selected to obtain the dog team particulars. The correct dog team should be entered in this field.

2.11 Discarded Drugs

Support police should be aware that during detection dog operations, it is common for a person who believes they are carrying a prohibited drug to attempt to avoid detection by discarding/throwing such a drug. If this is witnessed during a deployment, discarded objects which are believed to be prohibited drugs are to be managed in a manner consistent with drug exhibit procedures. This includes a requirement that support police record this information on WebCOPS as a Drug Detection.

2.12 Exhibits

Normal exhibit procedures must be followed and adequate resources available to support the conduct of the operation. All necessary equipment for the recording and secure storage of any exhibits should be on hand at the site.

2.13 Prescription Medication

During drug detection dog deployments and operations, police often locate various forms of prescription medication upon a searched person. Whilst it is known some users of prohibited drugs may possess and administer prescription medication that has been illegally obtained, police are to be reminded that some persons may carry such medication out of its usual packaging and have legitimate reasons for doing so.

Police are reminded that there is no legal requirement for a person to carry evidence that a prescription drug in their possession was lawfully obtained or supplied. As such, thorough and appropriate investigative techniques need to be utilised prior to the confiscation of any prescription medication. It is an important consideration for police of the potential adverse consequences to a person's health should prescription medication be seized.

Reference is made to the *Guide for Police when dealing with pharmaceuticals* as outlined in the link below.

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2.14 Public Place deployments

Whilst conducting drug detection dog operations or deployments within public places, police are reminded of the likelihood of such activity attracting the attention from passers-by. This may include the recording of sections of the deployment and/or interactions which are occurring. Police have no specific rights or powers to do anything to prevent a person from taking photographs or filming police officers in a public place. In the event this occurs, police should remain professional and vigilant to the duties they are performing and not attempt to engage in attempts to stop this action which may lead to an escalation of the situation.

Section 32 of LEPR creates a legislative responsibility for a Police Officer conducting a search to provide reasonable privacy for the person searched and undertake the search in a timely way. Police should also be aware of the possible impacts of searching members of the public within view of others. Historically, public viewing of a drug detection dog operation and/or personal interaction has led to adverse comments from member(s) of the public or an interest group. In some situations, this has led to taunting of police involved in the operation and / or attempts to enlist the support of other members of the public to engage in unplanned protest towards the policing activity. It is essential in such a situation that police involved always remain professional.

Should it be reasonably believed the situation may escalate a senior officer should be requested to attend the scene and measures implemented to deploy additional police resources to the location.

Should person(s) attempt to interrupt police performing their duties being undertaken in accordance with the operational plan of the drug detection dog operation, police should implement a response which is commensurate to the situation to allow the operation to continue safely. This may include the use of powers available under Part 14 of LEPR as it relates to the issuing of reasonable directions in public places or taking action for identified offences committed as it relates to hindering police in the execution of their duty or the ongoing committing of other summary offences.

2.15 Licensed Premises deployments

Due to the often, crowded nature of many licensed premises, and the possible intoxication levels of some patrons, it remains the decision of the dog handler as to whether the drug detection dog will enter such venues and / or areas on the premises for the purpose of drug detection duties. The time an operation is conducted can limit the effectiveness of a drug detection dog as venues may be overly crowded, patrons may be highly affected by drugs/alcohol or drugs may have already been consumed leading to minimal indications.

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If planning drug detection operations with a view to including licensed premises, it is recommended that prior consultation occurs between the Coordination Cell of the Dog Unit and the Operation Commander to ensure the location and time is operationally suitable.

Discretion about the nature of consultation with operators of licensed premises about drug detection dog operations should remain with the PAC / PD Commander.

Responsibilities

Operation organisers should regularly consult with operators of licensed premises about the manner, frequency and results of drug detection dog operations conducted on licensed premises.

Upon arrival at a licensed premises, one police officer should be tasked with the role of seeking out the manager or other person in charge, to advise of their presence and answer questions about the operation.

2.16 Drug detection dogs and Motor Vehicles – roadside operations

For roadside operations utilising a drug detection dog, the issuing of a warrant by an Authorised Justice to use a drug detection dog under Section 149 of LEPR, does not in itself give police the power to place the dog inside a private motor vehicle in a public place. The warrant does enable the drug detection dog to be utilised for general drug detection at a public place specified within the warrant. The area within a motor vehicle is NOT deemed a public place.

In the case where a drug detection dog does indicate the scent of a prohibited drug from the outside of a vehicle, the dog handler would inform the support police who will make further enquires. The decision to search inside that vehicle rests with the support police (depending on information/Intelligence obtained).

Should police, through their own assessment of this information and/or investigations form a reasonable suspicion that the vehicle contains or a person in the vehicle has in his or her possession or under his or her control, a prohibited plant or a prohibited drug, they may exercise their powers under Section 36 of LEPRA to search the vehicle.

When exercising such a power, the assistance of a drug detection dog may be sought to assist the officer in such a search.

T1(f) T2(b)

2.17 Offences committed towards Drug Detection Dogs and associated operations

Where there is evidence of a deliberate and intentional act committed towards a Drug Detection Dog which has the potential to injure the dog and / or compromise the operation being undertaken, investigations should be undertaken. Whilst the Dog & Mounted Command and handler will assist, any investigation should be undertaken independently from the Dog Handler to determine whether sufficient evidence exists to initiate a prosecution. Relevant offences which the investigation should consider include;

Section 60 of Crimes Act 1900 (NSW)

A person who hinders or resists, or incites another person to hinder or resist, a police officer in the execution of the duty commits an offence. Whilst not defined in the act, case law defines an officer is hindered by any obstruction or interference that makes their duty substantially more difficult to perform.

Section 5 of Prevention of Cruelty to Animals Act 1979

A person shall not commit an act of cruelty upon an animal. Whilst not defined in the Act, a dictionary definition of behaviour which caused physical or mental harm to another is considered a basis for consideration.

Section 531 of Crime Act 1900 (NSW)

A person who intentionally kills or seriously injures an animal knowing that the animal is being used by law enforcement officers in the execution of the officer's duty or as a consequence of or in retaliation for the use of the animal by a law enforcement officer is guilty of an offence. Legal advice suggests it is necessary to prove the intent to inflict severe pain, torture, beat or commit an act of serious cruelty including death or serious injury. Injury may include psychological if it is able to be shown through specialist veterinary advice sourced through the Dog & Mounted Command.

2.18 Search Warrant or General Warrant – reporting requirements

Report to authorised officer - there are reporting requirements upon completion of Search and General Warrants via Form 27 – *Report to eligible issuing officer about the execution of warrant (other than covert search warrant)*. The form must be completed following the job / operation, and within ten (10) days after the execution of a search warrant or drug detection dog warrant.

Police must include all details of warrant execution timings, items seized and the location (including offender custody details) of the seized items. This report, and the original warrant issued, must be forwarded to the Local Court from where it originated.

It is suggested the Operation Commander retains a copy of this report and the original warrant and enters this electronically onto e@gle.i or View IMS for future reference.

T1(f) T2(b)

2.19 Completion of the operation

It is strongly recommended that at the conclusion of any drug detection dog operation or deployment, a debriefing should occur. The debriefing should be conducted by the Operation Commander or an appropriate delegated officer at a time and place of his/her determination. The purpose of the debrief is to:

1. Identify any major defects in the planning and implementation of the operation;
2. Identify those areas that had a critical role in the success of the operation;
3. Discuss proposals for improvement

Any proceedings stemming from the debriefing should be recorded and retained for future reference, with any serious issues brought to the attention of the Police Area / District Commander and/or Dog Unit Commander.

3 Definitions

A 'Drug Detection Dog' (as referred to in this document) is a Dog that has successfully achieved competency (with handler) to perform operational duties for NSW Police Force - to assist in policing operations to locate prohibited drugs.

4 Compliance Requirements and Internal Controls (if required)

Training of Drug Detection Dog Teams is the responsibility of the Dog Unit Training Office. The Training Supervisor (Sergeant) and Leading Senior Constables conduct operational training and annual accreditations of all Drug Detection Dog Teams.

All Drug Detection Teams must meet operational standards in order to be accredited and deemed competent for operational deployment. Training and accreditation standards are consistent with the Australia & New Zealand Policing Advisory Agency (ANZPAA) Education and Training Guidelines for Police Dog Handling (2014).

Annexure 1 – Legislation

LEPRA – Part 11, Division 2 – Sections 145 – 150

145 Meaning of “general drug detection”

(cf *Police Powers (Drug Detection Dogs) Act 2001*, s 5)

For the purposes of this Division—

general drug detection is the detection of prohibited drugs or plants in the possession or control of a person, except during a search of a person that is carried out after a police officer reasonably suspects that the person is committing a drug offence.

146 General authority to use drug detection dogs

(cf *Police Powers (Drug Detection Dogs) Act 2001*, s 4)

- 1) If a police officer is authorised to search a person for the purpose of detecting a drug offence, the officer is entitled to use a dog for that purpose.
- 2) A police officer is, for the purpose of detecting a drug offence, entitled to be accompanied by a dog under the officer’s control if the officer is entitled to enter, or be in or on, particular premises in the exercise of the officer’s functions.
- 3) Neither the State nor a police officer is liable to any action, liability, claim or demand merely because a dog entered, or was in or on, premises as provided by this section.

147 Use of dogs for general drug detection authorised

(cf *Police Powers (Drug Detection Dogs) Act 2001*, s 6)

A police officer is authorised to use a dog to carry out general drug detection, but only as provided by this Division.

148 General drug detection with dogs in authorised places

(cf *Police Powers (Drug Detection Dogs) Act 2001*, s 7)

- 1) A police officer may, without a warrant, use a dog to carry out general drug detection in relation to the following persons—
 - (a) persons at, or seeking to enter or leave, any part of premises being used for the consumption of liquor that is sold at the premises (other than any part of premises being used primarily as a restaurant or other dining place),
 - (b) persons at, or seeking to enter or leave, a public place at which a sporting event, concert or other artistic performance, dance party, parade or other entertainment is being held,
 - (c) persons on, or seeking to enter or leave, a public passenger vehicle that is travelling on a route prescribed by the regulations, or a station, platform or stopping place on any such route,
 - (d) persons at, or seeking to enter or leave, any part of premises that the officer is authorised to enter under the *Tattoo Parlours Act 2012* to carry out general drug detection using a dog,
 - (e) persons at any public place in the Kings Cross precinct (being the area including and bounded by the parts of streets specified in Schedule 2 to the *Liquor Act 2007*),
 - (f) persons at, or seeking to enter or leave, any part of premises that the officer is authorised to enter under section 10 of the *Restricted Premises Act 1943*.
- 2) In this section—

public passenger vehicle means a train, light rail vehicle or bus that is used to provide a public passenger service.
- 3) A reference in this section to Schedule 2 to the *Liquor Act 2007* is a reference to that Schedule as in force on the commencement of this subsection.

149 General drug detection with dogs by warrant

(cf *Police Powers (Drug Detection Dogs) Act 2001*, s 8)

- (1) A police officer may use a dog to carry out general drug detection if authorised to do so by a warrant under this section.
- (2) A police officer who has reasonable grounds for believing that the persons at any public place may include persons committing drug offences may apply to an authorised officer for a warrant under this section.
- (3) An authorised officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a warrant authorising any police officer to use a dog to carry out general drug detection in the public place during the period or periods specified in the warrant.
- (4) An application for a warrant under this section must disclose whether any general drug detection to be carried out under the warrant will be part of a covert police operation.

150 Provisions relating to general drug detection

(cf *Police Powers (Drug Detection Dogs) Act 2001*, s 9)

- (1) A police officer carrying out general drug detection under this Division is to take all reasonable precautions to prevent the dog touching a person.
- (2) A police officer is required to keep a dog under control when the officer is using the dog to carry out general drug detection under this Division.
- (3) General drug detection under this Division may be carried out as part of a covert police operation, but only if it is authorised by a warrant under this Division.
- (4) The provisions of this Division do not affect—
 - (a) the search of a person whom a police officer reasonably suspects is committing a drug offence, or
 - (b) any search of premises that does not involve a search of persons in or on the premises.
- (5) Nothing in this Division confers on a police officer a power—
 - (a) to enter any premises that the officer is not otherwise authorised to enter, or
 - (b) to detain a person who the officer is not otherwise authorised to detain.

LEPRA Regulation 2016 – Part 5 Miscellaneous – Section 49

49 Use of drug detection dogs in authorised places—prescribed train routes

- (1) For the purposes of section 148(1)(c) of the Act, the following public passenger vehicle routes are prescribed—
 - (a) the Bankstown route, being the train line that is—
 - (i) between Liverpool station and Sydney Central station, and
 - (ii) via Bankstown station,
 - (b) the Inner West route, being the train line that is—
 - (i) between Liverpool station and Sydney Central station, and
 - (ii) via Regents Park station,
 - (c) the Eastern Suburbs route, being the train line that is between Bondi Junction station and Sydney Central station,
 - (d) the Illawarra route, being the train line that is between Bomaderry station and Sydney Central station, and including the train line between Sutherland station and Cronulla station via Kirrawee station, and including the train line between Wollongong station and Port Kembla station,
 - (e) the Northern route, being the train line that is—
 - (i) between Newcastle station and Sydney Central station, and
 - (ii) via Strathfield station,and including the train line between Chatswood station and Epping station,
 - (f) the South route, being the train line that is—
 - (i) between Campbelltown station and Sydney Central station, and
 - (ii) via Circular Quay station, and
 - (iii) via Granville station,

- (g) the Western route, being the train line that is—
 - (i) between Penrith station and Sydney Central station, and
 - (ii) via Strathfield station,and including the train line between Blacktown station and Richmond station and the Olympic Park loop,
 - (h) the North Shore route, being the train line that is—
 - (i) between Berowra station and Sydney Central station, and
 - (ii) via Chatswood station,
 - (i) the Southern Highlands route, being the train line that is between Campbelltown station and Goulburn station,
 - (j) the Blue Mountains route, being the train line that is between Lithgow station and Sydney Central station,
 - (k) the Hunter route, being the train line that is between Newcastle station and Dungog station, and including the train line between Maitland station and Scone station,
 - (l) the Airport and East Hills route, being the train line that is—
 - (i) between Sydney Central station and Macarthur station, and
 - (ii) via Wollli Creek station or via Sydenham station,
 - (m) the Carlingford route, being the train line that is between Clyde station and Carlingford station,
 - (n) the Cumberland route, being the train line that is between Campbelltown station and Schofields station.
- (2) A route prescribed by this clause includes a train travelling on any part of the train line described in respect of the route, irrespective of whether—
 - (a) the train stops at a station on the train line, or
 - (b) the train has travelled or will travel on any other train line.
 - (3) A route prescribed by this clause includes the route of any bus being used to convey persons between train stations on the prescribed route because trains are not running between those stations, and any stopping place of such a bus.

50 Use of drug detection dogs in authorised places—prescribed bus routes

For the purposes of section 148(1)(c) of the Act, the following public passenger vehicle routes are prescribed—

- (a) the Albury route, being the bus route that is—
 - (i) between Albury and Sydney, and
 - (ii) via Goulburn and the Hume Highway,
- (b) the Grafton route, being the bus route that is—
 - (i) between Grafton and Sydney, and
 - (ii) via Kempsey and the Pacific Highway.

Tattoo Parlours Action 2012 – No 32

Part 4 Enforcement – Division 2 – Powers of entry

Division 2 Powers of entry

30A Powers of authorised officers to enter premises without warrant

- (1) An authorised officer may at any reasonable time enter any licensed premises, or any other premises that the authorised officer reasonably suspects are being used to perform body art tattooing procedures for fee or reward, for the following purposes—
 - (a) for determining whether there has been compliance with, or a contravention of, this Act or the regulations,
 - (b) generally for administering this Act.
- (2) This section does not confer a power to enter any premises or part of premises that are used only for residential purposes without the permission of the occupier or the authority of a search warrant.

30B Powers of authorised officers to enter premises with warrant

- (1) An authorised officer may apply to an authorised warrants officer for the issue of a search warrant if the authorised officer believes on reasonable grounds that any provision of this Act or the regulations is being or has been contravened on any premises.
- (2) An authorised warrants officer to whom any such application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any authorised officer to enter and search the premises.
- (3) An authorised officer executing a search warrant issued under this section may—
 - (a) enter the premises specified in the warrant, and
 - (b) search the premises for evidence of a contravention of this Act or the regulations, and
 - (c) exercise any other function of an authorised officer under this Part.
- (4) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.
- (5) In this section—
authorised warrants officer means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

30C Powers that may be exercised by authorised officers on entry

- (1) Without limiting section 32, an authorised officer may, at any premises lawfully entered under this Act for a purpose referred to in section 30A (1), do any or all of the following—
 - (a) examine any licence, registers, books, records or other documents on the premises,
 - (b) make a copy on the premises of any licence, registers, books, records or other documents and retain that copy,
 - (c) require any person to make a copy on the premises of any licence, registers, books, records or other documents and give that copy to the authorised officer to retain,
 - (c1) make such examinations and inquiries as the authorised officer considers necessary,
 - (d) take such photographs, films, audio, video or other recordings as the authorised officer considers necessary,
 - (e) require any person to produce any licence, registers, books, records or other documents on the premises,
 - (f) require any person to answer any question relating to any licence, registers, books, records or other documents or any other relevant matter,
 - (g) take any licence, registers, books, records or other documents from the premises for the purposes of copying them,
 - (h) seize any licence, registers, books, records or other documents, or any other thing that the authorised officer believes on reasonable grounds is connected with an offence against this Act or the regulations.
- (2) The power to seize anything connected with an offence includes a power to seize anything that will provide evidence of the commission of an offence.
- (3) Any registers, books, records or other documents taken only for the purpose of copying them must be returned when that copying is completed.

31 Police powers of entry with dog

A police officer may at any reasonable time enter any licensed premises, or any other premises that the police officer reasonably suspects are being used to perform body art tattooing procedures for fee or reward, for the purpose of—

- (a) carrying out general drug detection (within the meaning of Division 2 of Part 11 of the *Law Enforcement (Powers and Responsibilities) Act 2002*) using a dog, or
- (b) carrying out general firearms or explosives detection (within the meaning of Part 13 of that Act) using a dog.

Part 4 Search and seizure powers without warrant

Note—

Safeguards relating to the exercise of powers under this Part are set out in Part 15.

Division 1 General personal search and seizure powers

20 Relevant offences

The following offences are **relevant offences** for the purposes of this Division—

- (a) indictable offences,
- (b) an offence against section 93FB of the *Crimes Act 1900*,
- (c) an offence against the *Weapons Prohibition Act 1998*, the *Firearms Act 1996*, or a regulation made under either of those Acts,
- (d) an offence against a provision of Part 2 of the *Explosives Act 2003*.

21 Power to search persons and seize and detain things without warrant

(cf *Crimes Act 1900*, ss 357, 357E, *Drug Misuse and Trafficking Act 1985*, s 37)

- (1) A police officer may, without a warrant, stop, search and detain a person, and anything in the possession of or under the control of the person, if the police officer suspects on reasonable grounds that any of the following circumstances exists—
 - (a) the person has in his or her possession or under his or her control anything stolen or otherwise unlawfully obtained,
 - (b) the person has in his or her possession or under his or her control anything used or intended to be used in or in connection with the commission of a relevant offence,
 - (c) the person has in his or her possession or under his or her control in a public place a dangerous article that is being or was used in or in connection with the commission of a relevant offence,
 - (d) the person has in his or her possession or under his or her control, in contravention of the *Drug Misuse and Trafficking Act 1985*, a prohibited plant or a prohibited drug.
- (2) A police officer may seize and detain—
 - (a) all or part of a thing that the police officer suspects on reasonable grounds is stolen or otherwise unlawfully obtained, and
 - (b) all or part of a thing that the police officer suspects on reasonable grounds may provide evidence of the commission of a relevant offence, and
 - (c) any dangerous article, and
 - (d) any prohibited plant or prohibited drug in the possession or under the control of a person in contravention of the *Drug Misuse and Trafficking Act 1985*,found as a result of a search under this section.

21A Ancillary power to search persons

- (1) In conducting a search of a person under section 21, a police officer may, if the police officer suspects on reasonable grounds that a thing referred to in section 21(1)(a), (b), (c) or (d) is concealed in the person's mouth or hair, require the person—
 - (a) to open his or her mouth to enable it to be searched, or
 - (b) to shake, or otherwise move, his or her hair.
- (2) Subsection (1) does not authorise a police officer to forcibly open a person's mouth.
- (3) A person must not, without reasonable excuse, fail or refuse to comply with a requirement made by a police officer in accordance with this section.
Maximum penalty—5 penalty units.

22 Power to seize and detain dangerous articles on premises

(cf *Crimes Act 1900*, s 357)

A police officer who is lawfully on any premises may seize and detain any dangerous article that the police officer finds on the premises, if the police officer suspects on reasonable grounds that the dangerous article is being or was used in or in connection with the commission of a relevant offence.

Note Premises include vessels, vehicles, aircraft and other places.

23 Power to search persons for dangerous implements without warrant in public places and schools

- (1) A police officer may, without a warrant, stop, search and detain a person who is in a public place or a school, and anything in the possession of or under the control of the person, if the police officer suspects on reasonable grounds that the person has a dangerous implement unlawfully in the person's possession or under the person's control.
- (2) To avoid doubt, if the person is in a school and is a student at the school, the police officer may also search the person's locker at the school and examine any bag or other personal effect that is inside the locker.
- (3) For the purposes of this section, the fact that a person is present in a location with a high incidence of violent crime may be taken into account in determining whether there are reasonable grounds to suspect that the person has a dangerous implement in the person's possession or under the person's control.
- (4) In conducting a search of a student in a school under this section, a police officer must, if reasonably possible to do so, allow the student to nominate an adult who is on the school premises to be present during the search.
- (5) A police officer may seize and detain anything found as a result of a search under this section that the police officer has reasonable grounds to suspect is a dangerous implement that is unlawfully in the person's possession or under the person's control.
- (6) For the purposes of this section—
 - (a) **locker** includes any facility for the storage of a student's personal effects, and
 - (b) anything inside a person's locker is taken to be under the control of the person.

Division 2

23A–26 (Repealed)

Division 3 Searches of persons on arrest or while in custody

27 Power to carry out search on arrest

(cf Cth Act, s 3ZE, common law)

- (1) A police officer who arrests a person for an offence or under a warrant, or who is present at the arrest, may search the person at or after the time of arrest, if the officer suspects on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything—
 - (a) that would present a danger to a person, or
 - (b) that could be used to assist a person to escape from lawful custody, or
 - (c) that is a thing with respect to which an offence has been committed, or
 - (d) that is a thing that will provide evidence of the commission of an offence, or
 - (e) that was used, or is intended to be used, in or in connection with the commission of an offence.
- (2) A police officer who arrests a person for the purpose of taking the person into lawful custody, or who is present at the arrest, may search the person at or after the time of arrest, if the officer suspects on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything—
 - (a) that would present a danger to a person, or
 - (b) that could be used to assist a person to escape from lawful custody.
- (3) A police officer may seize and detain a thing found in a search if it is a thing of a kind referred to in subsection (1) or (2).
- (4) Nothing in this section limits section 28A.

28 Ancillary power to search persons

- (1) In conducting a search of a person under section 27, a police officer may, if the police officer suspects on reasonable grounds that a thing of a kind referred to in section 27(1) or (2) is concealed in the person's mouth or hair, require the person—
 - (a) to open his or her mouth to enable it to be searched, or
 - (b) to shake, or otherwise move, his or her hair.
- (2) Subsection (1) does not authorise a police officer to forcibly open a person's mouth.

- (3) A person must not, without reasonable excuse, fail or refuse to comply with a requirement made by a police officer in accordance with this section.
Maximum penalty—5 penalty units.

28A Power to carry out search of person in lawful custody after arrest

(cf Cth Act, s 3ZH, common law)

- (1) A police officer may search a person who is in lawful custody after arrest and seize and detain anything found on that search.
- (2) Any such search may be carried out at a police station or other place of detention or immediately before or during transportation of the person to or from a police station or other place of detention.

Division 4 Provisions relating generally to personal searches

29 Application of Division

- (1) This Division applies to any search of a person carried out by a police officer under this Act, except as otherwise provided by this Act or the regulations.
- (2) This Division also applies to any search of a person that is carried out by a police officer after obtaining the person's consent to carry out the search. In that case—
 - (a) the purpose of the search is the purpose for which the police officer obtained consent to search, and
 - (b) a general consent to the carrying out of a search is not consent to carry out a strip search unless the person consents to the carrying out of a strip search.

30 Searches generally

In conducting the search of a person, a police officer may—

- (a) quickly run his or her hands over the person's outer clothing, and
- (b) require the person to remove his or her coat or jacket or similar article of clothing and any gloves, shoes, socks and hat (but not, except in the case of a strip search, all of the person's clothes), and
- (c) examine anything in the possession of the person, and
- (d) pass an electronic metal detection device over or in close proximity to the person's outer clothing or anything removed from the person, and
- (e) do any other thing authorised by this Act for the purposes of the search.

31 Strip searches

A police officer may carry out a strip search of a person if—

- (a) in the case where the search is carried out at a police station or other place of detention—the police officer suspects on reasonable grounds that the strip search is necessary for the purposes of the search, or
- (b) in the case where the search is carried out in any other place—the police officer suspects on reasonable grounds that the strip search is necessary for the purposes of the search and that the seriousness and urgency of the circumstances make the strip search necessary.

32 Preservation of privacy and dignity during search

- (1) A police officer who searches a person must, as far as is reasonably practicable in the circumstances, comply with this section.
- (2) The police officer must inform the person to be searched of the following matters—
 - (a) whether the person will be required to remove clothing during the search,
 - (b) why it is necessary to remove the clothing.
- (3) The police officer must ask for the person's co-operation.
- (4) The police officer must conduct the search—
 - (a) in a way that provides reasonable privacy for the person searched, and
 - (b) as quickly as is reasonably practicable.
- (5) The police officer must conduct the least invasive kind of search practicable in the circumstances.

- (6) The police officer must not search the genital area of the person searched, or in the case of female or a transgender person who identifies as a female, the person's breasts unless the police officer suspects on reasonable grounds that it is necessary to do so for the purposes of the search.
- (7) A search must be conducted by a police officer of the same sex as the person searched.
- (7A) However, if a police officer of the same sex as the person who is to be searched is not immediately available, a police officer may delegate the power to conduct the search to another person who is—
 - (a) of the same sex as the person to be searched, and
 - (b) of a class of persons prescribed by the regulations for the purposes of this subsection.The search by that other person is to be conducted under the direction of the police officer and in accordance with provisions of this Act applying to searches conducted by police officers.
- (8) A search of a person must not be carried out while the person is being questioned. If questioning has not been completed before a search is carried out, it must be suspended while the search is carried out.
- (8A) Subsection (8) does not prevent the asking of questions that only relate to issues of personal safety associated with the search.
- (9) A person must be allowed to dress as soon as a search is finished.
- (10) If clothing is seized because of the search, the police officer must ensure the person searched is left with or given reasonably appropriate clothing.
- (11) In this section—
questioning of a person means questioning the person or carrying out an investigation (in which the person participates).

33 Rules for conduct of strip searches

(cf Cth Act, s 3ZI)

- (1) A police officer who strip searches a person must, as far as is reasonably practicable in the circumstances, comply with the following—
 - (a) the strip search must be conducted in a private area,
 - (b) the strip search must not be conducted in the presence or view of a person who is of the opposite sex to the person being searched,
 - (c) except as provided by this section, the strip search must not be conducted in the presence or view of a person whose presence is not necessary for the purposes of the search.
- (2) A parent, guardian or personal representative of the person being searched may, if it is reasonably practicable in the circumstances, be present during a search if the person being searched has no objection to that person being present. Subsection (1)(b) does not prevent any such person who is of the opposite sex to the person being searched from being present during the search.
- (3) A strip search of a child who is at least 10 years of age but under 18 years of age, or of a person who has impaired intellectual functioning, must be conducted—
 - (a) in the presence of a parent or guardian of the person being searched, or
 - (b) if that is not acceptable to the person, in the presence of another person who is not a police officer and who is capable of representing the interests of the person being searched and whose presence is acceptable to that person.
- (3A) Subsection (3) does not apply if a police officer suspects on reasonable grounds that—
 - (a) delaying the search is likely to result in evidence being concealed or destroyed, or
 - (b) an immediate search is necessary to protect the safety of a person.In such a case, the police officer must make a record of the reasons for not conducting the search in the presence of a parent or guardian, or other person capable of representing the interests, of the person being searched.
- (4) A strip search must not involve a search of a person's body cavities or an examination of the body by touch.
- (5) A strip search must not involve the removal of more clothes than the person conducting the search believes on reasonable grounds to be reasonably necessary for the purposes of the search.

- (6) A strip search must not involve more visual inspection than the person conducting the search believes on reasonable grounds to be reasonably necessary for the purposes of the search.
- (7) A strip search may be conducted in the presence of a medical practitioner of the opposite sex to the person searched if the person being searched has no objection to that person being present.
- (8) This section is in addition to the other requirements of this Act relating to searches.
- (9) In this section—
impaired intellectual functioning means—
 - (a) total or partial loss of a person's mental functions, or
 - (b) a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction, or
 - (c) a disorder, illness or disease that affects a person's thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour.

Note

Procedures for searches of a more invasive nature are dealt with under the [Crimes \(Forensic Procedures\) Act 2000](#).

34 No strip searches of children under 10 years

A strip search must not be conducted on a person who is under the age of 10 years.

34A Searches carried out with consent

- (1) A police officer may search a person with the person's consent but only if the police officer has sought the person's consent before carrying out the search.
- (2) A police officer must, before carrying out any such consensual search, provide the person with—
 - (a) evidence that the police officer is a police officer (unless the police officer is in uniform), and
 - (b) the name of the police officer and his or her place of duty.

Division 5 Vehicle stop, entry, search and roadblock powers

35 Relevant offences

The following offences are **relevant offences** for the purposes of this Division—

- (a) indictable offences,
- (b) an offence against section 93FB of the [Crimes Act 1900](#),
- (c) an offence against the [Weapons Prohibition Act 1998](#), the [Firearms Act 1996](#), or a regulation made under either of those Acts.

36 Power to search vehicles and seize things without warrant

(cf [Crimes Act 1900](#), ss 357, 357E, [Police Powers \(Vehicles\) Act 1998](#), s 10, [Drug Misuse and Trafficking Act 1985](#), s 37)

- (1) A police officer may, without a warrant, stop, search and detain a vehicle if the police officer suspects on reasonable grounds that any of the following circumstances exists—
 - (a) the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, anything stolen or otherwise unlawfully obtained,
 - (b) the vehicle is being, or was, or may have been, used in or in connection with the commission of a relevant offence,
 - (c) the vehicle contains anything used or intended to be used in or in connection with the commission of a relevant offence,
 - (d) the vehicle is in a public place or school and contains a dangerous article that is being, or was, or may have been, used in or in connection with the commission of a relevant offence,
 - (e) the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, a prohibited plant or prohibited drug in contravention of the [Drug Misuse and Trafficking Act 1985](#),

- (f) circumstances exist on or in the vicinity of a public place or school that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.
- (2) A police officer may, without a warrant, stop, search and detain a class of vehicles on a road, road related area or other public place or school if the police officer suspects on reasonable grounds that any of the following circumstances exist—
 - (a) a vehicle of the specified class of vehicles is being, or was, or may have been, used in or in connection with the commission of an indictable offence and the exercise of the powers may provide evidence of the commission of the offence,
 - (b) circumstances exist on or in the vicinity of a public place or school that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.
- (3) A police officer may seize and detain—
 - (a) all or part of a thing that the police officer suspects on reasonable grounds is stolen or otherwise unlawfully obtained, and
 - (b) all or part of a thing that the police officer suspects on reasonable grounds may provide evidence of the commission of a relevant offence, and
 - (c) any dangerous article, and
 - (d) any prohibited plant or prohibited drug in the possession or under the control of a person in contravention of the [Drug Misuse and Trafficking Act 1985](#), found as a result of a search under this section.

36A Power to stop vehicles

A police officer may stop a vehicle if the police officer suspects on reasonable grounds that the driver of, or a passenger in or on, the vehicle is a person in respect of whom the police officer has grounds to exercise a power of arrest or detention or a search power under this Act or any other law.

37 Powers to stop vehicles and erect roadblocks

(cf [Police Powers \(Vehicles\) Act 1998](#), s 10)

- (1) For the purposes of this Act, the following are **vehicle roadblock powers**—
 - (a) the power to establish a roadblock (consisting of any appropriate form of barrier or obstruction preventing or limiting the passage of vehicles) on any specified road, road related area or other public place or school,
 - (b) the power to stop vehicles at a roadblock.
- (2) A senior police officer may authorise another police officer to exercise any or all of the vehicle roadblock powers in respect of any specified vehicle (or class of vehicles) on a road, road related area or other public place or school if the senior police officer suspects on reasonable grounds that—
 - (a) the vehicle (or a vehicle of the specified class of vehicles) is being, or was, or may have been, used in or in connection with the commission of an indictable offence and the exercise of the powers may provide evidence of the commission of the offence, or
 - (b) circumstances exist on or in the vicinity of that road, road related area, place or school that are likely to give rise to a serious risk to public safety and the exercise of the powers may lessen the risk.
- (3) A police officer may exercise vehicle roadblock powers without obtaining an authorisation by a senior police officer if the police officer suspects on reasonable grounds that it is necessary to exercise the powers and that the seriousness and urgency of the circumstances require the powers to be exercised without obtaining the authorisation.
- (4) A police officer who acts under subsection (3) must notify a senior police officer as soon as practicable and obtain an authorisation for any ongoing action.

38 Power to give reasonable directions

(cf *Police Powers (Vehicles) Act 1998*, s 10)

A police officer who exercises a stop, search or detention power under this Division, or who is authorised to exercise a vehicle roadblock power under this Division, has the power to give reasonable directions (to facilitate the exercise of the power) to any person—

- (a) in or on the vehicle concerned, or
- (b) on or in the vicinity of a road, road related area or other public place or school.

39 Failure to comply with directions

(cf *Police Powers (Vehicles) Act 1998*, s 10)

A person must not, without reasonable excuse—

- (a) fail or refuse to stop a vehicle the person is driving when directed to do so by a police officer under this Division, or
 - (b) fail or refuse to comply with any other direction given by a police officer under this Division.
- Maximum penalty—50 penalty units or 12 months imprisonment, or both.

40 Duration and form of roadblock authorisation

(cf *Police Powers (Vehicles) Act 1998*, s 11)

- (1) A roadblock authorisation may be given either verbally (including by telephone, radio or other communication device) or in writing (including facsimile).
- (2) A roadblock authorisation has effect for a period of 6 hours (or such lesser period as may be specified by the senior police officer giving the authorisation).
- (3) Nothing in this section prevents a senior police officer from giving a further roadblock authorisation in respect of the same vehicle (or class of vehicles) on a road, road related area or other public place or school.

41 Record of roadblock authorisation

(cf *Police Powers (Vehicles) Act 1998*, s 12)

- (1) A senior police officer who gives a roadblock authorisation must—
 - (a) if the authorisation is in writing—specify the following—
 - (i) the date on, and time at, which the authorisation is given,
 - (ii) the vehicle roadblock powers conferred by the authorisation and the indictable offence or risk to public safety in respect of which the authorisation is given,
 - (iii) the road, road related area or other public place or school in respect of which the authorisation is given,
 - (iv) the vehicle (or class of vehicles) in respect of which the authorisation is given,
 - (v) the period of the authorisation if the period is less than 6 hours, or
 - (b) if the authorisation is given verbally—make a record as soon as is reasonably practicable after the giving of the authorisation of the matters referred to in paragraph (a).
- (2) A failure to comply with subsection (1) does not invalidate a roadblock authorisation.

Division 6 Vessel and aircraft entry and search powers

42 Power to search vessels and aircraft and seize things without warrant

(cf *Crimes Act 1900*, ss 357, 357D, 357E)

- (1) A police officer may, without a warrant, stop, search and detain a vessel or an aircraft if the police officer suspects on reasonable grounds that any of the following circumstances exists—
 - (a) the vessel or aircraft contains, or a person in the vessel or aircraft has in his or her possession or under his or her control, anything stolen or otherwise unlawfully obtained,
 - (b) the vessel or aircraft is being or was used in or in connection with the commission of a relevant offence,
 - (c) the vessel or aircraft contains anything used or intended to be used in or in connection with the commission of a relevant offence,

- (d) the vessel or aircraft is in a public place and contains a dangerous article that is being or was used in or in connection with the commission of a relevant offence.
- (2) A police officer may seize and detain—
 - (a) all or part of a thing that the police officer suspects on reasonable grounds is stolen or otherwise unlawfully obtained, and
 - (b) all or part of a thing that the police officer suspects on reasonable grounds may provide evidence of the commission of a relevant offence, and
 - (c) any dangerous article, and
 - (d) any prohibited plant or prohibited drug in the possession or under the control of a person in contravention of the *Drug Misuse and Trafficking Act 1985*, found as a result of a search under this section.
- (3) The following offences are **relevant offences** for the purposes of this section—
 - (a) indictable offences,
 - (b) an offence against section 93FB of the *Crimes Act 1900*,
 - (c) an offence against the *Weapons Prohibition Act 1998*, the *Firearms Act 1996*, or a regulation made under either of those Acts.

43 Power to board vessels

(cf *Crimes Act 1900*, s 357C)

- (1) A police officer authorised by this section may, without a warrant, with as many other police officers as he or she thinks necessary, take the actions set out in subsection (2) if the police officer suspects on reasonable grounds that it is necessary to do so—
 - (a) to prevent, on a vessel, injury to people or damage to property by fire or otherwise, or
 - (b) to preserve peace and good order on a vessel, or
 - (c) to prevent, detect or investigate any offence that may be, or may have been, committed on a vessel.
- (2) The police officer may take any one or more of the following actions—
 - (a) enter into any part of any vessel,
 - (b) search and inspect the vessel,
 - (c) take all necessary measures for preventing, on the vessel, injury to persons or damage to property by fire or otherwise,
 - (d) take all necessary measures for preserving peace and good order on the vessel or for preventing, detecting or investigating any offences that may be, or may have been, committed on the vessel.
- (3) The following police officers are authorised by this section—
 - (a) a police officer of or above the rank of sergeant,
 - (b) a police officer in charge of a police station,
 - (c) a police officer in charge of a police vessel.

44 Power to search aircraft for safety reasons

(cf *Crimes Act 1900*, s 357A)

- (1) An authorised person may, without a warrant, search an aircraft, any person on board or about to board an aircraft, or any luggage or freight on board an aircraft, or about to be placed on board an aircraft, if the person suspects on reasonable grounds that an offence involving the safety of the aircraft is being, or was, or may have been, or may be, committed on board or in relation to the aircraft.
- (2) The following persons are authorised persons for the purposes of this section—
 - (a) the commander of the aircraft,
 - (b) a person authorised in writing by an authorised officer, on the basis of a suspicion referred to in subsection (1), to carry out a search under this section.
- (3) A search of a person conducted under this section must be conducted by a person of the same sex as the person being searched.

45 Search powers relating to prohibited plants and prohibited drugs

(cf *Drug Misuse and Trafficking Act 1985*, s 37)

- (1) A police officer authorised by this section may, without a warrant, with as many other police officers as he or she thinks necessary, take the actions set out in subsection (2) if the police officer reasonably suspects that there is in a vessel or aircraft a prohibited plant or prohibited drug that is, in contravention of the *Drug Misuse and Trafficking Act 1985*, in the possession or under the control of any person.
- (2) The police officer may take the following actions—
 - (a) stop and detain the vessel or aircraft,
 - (b) enter into any part of the vessel or aircraft,
 - (c) search and inspect the vessel or aircraft.
- (3) The following police officers are authorised by this section—
 - (a) a police officer of or above the rank of sergeant,
 - (b) a police officer in charge of a police station,
 - (c) a police officer in charge of a police vessel.

Division 7 Additional search and seizure powers in relation to things used to interfere with business or undertaking

45A Things to which Division applies

This Division applies to anything that is intended to be used to lock-on or secure a person to any plant, equipment or structure for the purpose of interfering with the conduct of a business or undertaking and that is likely to be used in a manner that will give rise to a serious risk to the safety of any person.

45B Power to search for and seize things without warrant

- (1) A police officer may, without warrant, stop, search and detain a person, vehicle, vessel or aircraft if the police officer suspects on reasonable grounds that the person has in his or her possession or under his or her control (or that the vehicle, vessel or aircraft contains) anything to which this Division applies.
- (2) A police officer may seize and detain all or part of a thing found as a result of a search under this section that the police officer suspects on reasonable grounds is a thing to which this Division applies.

45C Forfeiture of things seized

- (1) A thing seized under this Division is forfeited to the Crown.
- (2) The Police Area Commander or Police District Commander (or such other person as that Commander may direct) may destroy or otherwise dispose of a thing so forfeited in accordance with the directions of the Commissioner.
- (3) The proceeds from any sale of a thing disposed of under this section are to be paid to the Treasurer for payment into the Consolidated Fund.
- (4) Part 17 does not apply to a thing seized under this Division and a court does not have jurisdiction on an application under that Part to order the delivery of the thing to the person from whom the thing was lawfully seized or who appears to be lawfully entitled to the thing.

Pages 34 through 39 redacted for the following reasons:

T1(f) T2(b)