

**CRIMINAL INVESTIGATION (EXCEPTIONAL POWERS) AND
FORTIFICATION REMOVAL BILL 2001**

EXPLANATORY MEMORANDUM

PART 1 - Preliminary

Clause 1 – Short Title

This clause provides for the Act to be cited as the Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001.

Clause 2 – Commencement

This clause provides for the Act to come into effect on the day on which it receives the Royal Assent.

Note: s67 provides that this Act expires 4 years after the date of Royal Assent.

Clause 3 – Meanings of terms used in this Act

This clause adds or amends definitions necessary for the operation the Act.

“Commissioner of Police” – self explanatory

The definition of **“document”** refers to the definition of “document” in section 79B of the *Evidence Act*. This includes any written record of information, book, map, plan, graph, drawing, photograph, disc, tape, sound track, film, negative, disc or tape.

The definition of **“organised crime”** is an important element in the definition of one type of section 4 offences. It is also an element which is integral to the exercise of the powers under this Bill.

The definition of **“Schedule 1 offence”** refers to Schedule 1 of this Bill. The offences listed in Schedule 1 include serious offences contained in the *The Criminal Code*, the *Misuse of Drugs Act 1981*, the *Firearms Act 1973* and the *Criminal Property Confiscation Act 2000*.

“special commissioner” means a person appointed by the Governor under Part 2 of the bill. The person appointed will be required to be a Judge or a retired Judge of the Supreme Court or District Court.

Clause 4 – Section 4 offences

A section 4 offence is the offence which will be investigated under the Bill. There are two categories of Section 4 offences:

- A “Schedule 1 offence” which is committed in the course of “organised crime” “Organised crime” is defined as being the activities of two or more persons who are associated together for purposes of carrying out two or more Schedule 1 offences, each of which involves substantial planning and organisation; or
- The offence of wilful murder or murder which has been committed in connection with another Schedule 1 offence.

Clause 5 – Delegation by Commissioner of Police

The Commissioner of Police will be able to delegate any of the Commissioner’s powers or duties under this Act in writing to another senior police officer of the rank of assistant commissioner or higher.

Part 2 – Special commissioners

Clause 6 – Appointment of special commissioner

The appointment of a Special Commissioner is made by the Governor. The period of appointment cannot exceed 4 years as Part 2 will expire 4 years after the date on which the Act commences. An appointment for less than 4 years can be specified. More than one Special Commissioner may be appointed at one time.

Clause 7 – Effect of appointment

A special commissioner has the power and functions specified in Division 3 of Part 2, Part 5 and Part 6.

Clause 8 – Tenure of appointment of judge

This clause is necessary to ensure that a Supreme or District Court judge’s commission is not revoked by their appointment as a special commissioner. It ensures that any common law doctrine which would have the effect of revoking the judicial commission does not have effect.

Part 3 – Examination before special commissioner

Division 1 – Preliminary matters

Clause 9 – Scope of this Part

The Special Commissioner must be satisfied that there are reasonable grounds for suspecting the criteria specified in clause 9(3).

The test includes consideration of the public interest.

Clause 10 – Offences for which a person stands charged

An express limitation on the use of the power to examine a person under Part 3 is that if that person is charged with an offence, this person cannot be examined concerning matters relevant to the charge.

Division 2 – Proceedings before special commissioner

Clause 11 – Summoning witnesses to attend and produce things

Under this clause the special commissioner may issue a summons which requires a person to appear before the special commissioner and give evidence or to produce any document or other thing. The power can only be utilised after the special commissioner is satisfied of the matters in clause 9(3).

Section 63 of the *Interpretation Act 1984*(WA) will require that service be carried out “with all convenient speed”.

This clause required the summons to be served on the person the subject of the summons.

Clause 12 – Disclosure of summons maybe prohibited

Under this clause, the special commissioner may make a notation on the summons that information about the summons must be kept confidential. The clause sets out the circumstances in which the special commissioner can include the notation. Those circumstances include, whether failing to include the notation would prejudice the safety of a person or the effectiveness of an investigation.

If a notation is included in a summons, it is an offence under clause 28 for a person served with the summons to disclose any details about the summons.

Clause 13 – Witness to attend while required

If a person is served with a summons under Part 3, the person must appear before a special commissioner until excused from further attendance. Clauses 20 and 26, will ensure that witnesses appear before a special commissioner. Clause 20 enables the police to apprehend and detain persons who do not obey the summons. Clause 26 creates an offence for failing to attend.

Clause 14 – Power to examine on oath

The Special Commissioner can require a witness who is to be examined under Part 3 to take an oath. Under clause 27 refusal to be sworn may be dealt with on motion of the Attorney General as if it is contempt of the Supreme Court. Contempt of court is a common law offence. The penalty is not prescribed by statute. It is at the Supreme Court’s discretion and can include imprisonment until the offender complies with the court’s directive.

Clause 15 – Affirmation instead of oath

A witness may make an affirmation rather than an oath. If so, the same consequences ensure..

Clause 16 – Legal representation

When being examined before a Special Commissioner a witness is entitled to have their lawyer present at the hearing. There are only two qualifications. First, where the Special Commissioner decides that postponing the witnesses' examination so as to enable the witness to have legal representation would not be in the public interest. Second, where the witnesses' lawyer has been involved in the proceedings or a matter being investigated, that lawyer can be precluded by the Special Commissioner from representing the witness.

- (1) Self explanatory.
- (2) This clause will enable a person to be examined without legal representation, for example, to prevent delays that would (i) adversely impact on an investigation or (ii) jeopardise the safety of an individual.

Clause 17 – Examination of witnesses

Witness may be examined by a person representing the Commissioner of Police and their lawyer to the extent that the Special Commissioner considers such examination as proper and relevant to the investigation. Failure to answer a question is dealt with in Clause 27.

Clause 18 – Examination to be private

Persona, other than a witnesses' lawyer, will not be able to attend a hearing before a Special Commissioner, unless the Commissioner makes an order permitting other persons to be present.

Clause 19 – Conduct of proceedings

Rules of evidence do not apply in procedures before a Special Commissioner. These are investigatory, not court proceedings. To adequate flexibility, the special commissioner can specify how proceedings are to be conducted. The exceptions are the matters in clause 16, 17 and 18.

Clause 20 – Arrest of witness failing to appear

The Special Commissioner can issue a warrant authorising the police or other specified persons to apprehend and detain persons who has not obeyed a summons to attend before a Special Commissioner. The detention is not unlimited but must only be for the purpose of bringing such a person before the Special Commissioner.

As a result, a person who fails to comply with summons to attend before a Special Commissioner can be apprehended and detained under clause 20(2) and be prosecuted for contempt under clause 26.

Clause 21 – Appeal against apprehension

The Special Commissioner will be a Judge or retired Judge. Therefore, an appeal by a person against their apprehension under clause 20 is to the Full Court

Clause 22 – Power of special commissioner in relation to things produced

A Special Commissioner or authorised person can inspect, retain, copy or make extracts of documents or things produced before the Special Commissioner.

Clause 23 – Records of Investigation

Records of every investigation, including transcripts of proceedings before a Special Commissioner, must be made. How those records are, for example, to be retained or disposed after the conclusion of an investigation can be specified by the Special Commissioner during the investigation. In addition, a special commissioner may make orders, for example, about disposal or retention of those records.

Questions which may arise after an investigation is completed about how to deal with those records will be determined by the Attorney General. Note: clause 66 (FOI Exemption) exempts the special commissioner from the operations of the *Freedom of Information Act 1992*.

Clause 24 – Ancillary powers of special commissioner

This clause ensures that the special commissioner has all powers necessary to carry out their functions for example designating the time and place where the hearing will occur..

Division 3 – Contraventions and Offences

Clause 25 – Proceedings for an offence

This clause is self-explanatory. However, it should be noted that under s11(1)(b) of the *Director of Public Prosecutions Act, the Director of Public Prosecutions* may take over a prosecution or indictment for an offence brought by another person. Also, the DPP may terminate such a prosecution.

Clause 26 – Penalty for failing to attend or produce anything

- (1) This clause creates an offence of failing to obey a summons issued under Clause 11 of this Bill. The offender may be dealt with as if in contempt of court. This clause provides a defence of reasonable excuse to this offence. However, the privilege against self-incrimination and obligation of confidentiality are expressly excluded from the defence of reasonable excuse. The operation of Clause 26(3)(6) with Clause 38 removes legal professional

privilege as a reasonable excuse but only in relation to the production of documents.

Clause 27 – Penalty for failing to be sworn or to give evidence

This clause creates an offence of failing to be sworn or make an affirmation or answer questions. The offender may be dealt with as if in contempt of court. The clause expressly provides that self-incrimination is not an excuse for failing to answer any question.

Clause 28 – Offences of disclosure contrary to notation on summons

If in accordance with clause 12, a notation is included on a summons, then it is an offence to disclose, either directly or indirectly, the existence of the summons, any information about the summons or any official matter connected with the summons. The maximum penalty for this offence is imprisonment for 3 years and a fine of \$60,000.

There are several exceptions to the prohibition against disclosure including disclosure to a third party for the purposes of obtaining legal advice. If a person to whom a disclosure is made in accordance with this clause in turn discloses information about the summons, that person commits an offence.

These restrictions on disclosing information in a summons cease to apply when the pre-charge hearing is concluded and either no evidence of an offence has been obtained or evidence has been obtained and further criminal proceedings have commenced or 5 years has lapsed since the issue of the summons.

Clause 29 – Breaching privacy of proceedings

Unless a person obtains permission from the special commissioner before publishing any information, that person commits an offence. The penalty is imprisonment for 1 year and a fine of \$20,000.00.

Clause 30 – Giving false testimony

It is an offence for a witness to knowingly give false evidence before a special commissioner. The penalty is imprisonment for 5 years.

Clause 31 – Bribery of witness

This clause creates various offences concerning influencing or attempting to influence a witness to give false evidence. The maximum penalty for this offence is 5 years.

Clause 32 – Fraud on witness

This clause creates various offences including the situation when a person practises a fraud or knowingly makes any false statement to a person who is summoned to appear before a special commissioner with the intention of affecting the testimony of that witness. The offences have a maximum penalty of imprisonment for 3 years..

Clause 33 – Destroying evidence

It is an offence for a person to intentionally destroy a document or other thing that may be required to be produced to a special commissioner. The maximum penalty for this offence is imprisonment for 3 years.

Clause 34 – Preventing witness from attending

It is an offence for a person to wilfully prevent or wilfully endeavour to prevent a person from appearing before a special commissioner as a witness. The maximum penalty is 3 years imprisonment.

Clause 35 – Injury to witness

This clause creates various offences including causing an injury to a witness who has appeared before a special commissioner. The maximum penalty is 5 years imprisonment and a fine of \$100,000.

Clause 36 – Dismissal by employers of witness

It is an offence for an employer to dismiss or prejudice an employee in employment on account of the employee appearing as a witness before the special commissioner. The maximum penalty is 5 years imprisonment and a fine of \$100,000.

This clause reverses the onus of proof. The employer carries the onus of proving the reason the employee was dismissed or prejudiced in employment was not for the reason the employee was a witness before the special commissioner.

Division 4 – Other matters

Clause 37 – Judicial supervision excluded

This clause excludes judicial review of the functions performed under Part 3. For example, the exercise by a special commissioner of powers under this Part cannot be reviewed on grounds that the special commissioner acted beyond power or took into account irrelevant considerations.

Clause 38 - Legal professional privilege

If a summons is issued under clause 11 for the production of documents, a claim of legal professional privilege does not provide a reasonable excuse for failure to produce those documents.

Clause 39 – Use of statements obtained

A person appearing before the special commissioner commits an offence pursuant to clause 27 if the person fails to answer a question the special commissioner requires the person to answer.

The person is not excused from answering the question on the grounds that the answer may incriminate the witness.

However, if a person answers question the special commissioner requires that person to answer, this clause prevents that statement from being used as evidence against that person in criminal proceedings.

The clause allows that statement to be used in proceedings for contempt or in proceedings for offences under Part 3. The clause also allows the statement to be used to establish that the witness has given a prior inconsistent statement.

A similar provision is in s30(5) of the *National Crime Authority Act 1984* (Clth).

Clause 40 – Protection to special commissioner and others

- (1) The proceedings under this Act are not court proceedings. Therefore, this clause is required to provide protection (for example, against defamation proceedings) to the special commissioner. It is appropriate that the protection provided is the same as provided to a Judge of the Supreme Court.
- (2) For the reasons mentioned above, this clause provides protection to witnesses to the same extent as supplied to a witness in the Supreme Court.
- (3) As above.

Clause 41 – Proceedings for defamation not to lie

The proceedings under this Act are not court proceedings. Therefore, this clause is required so as to provide protection for the State, a Minister or an employee in relation to publishing of the transcript.

Clause 42 – Privilege, protection or immunity not limited or abridged

To ensure that clauses 40 and 41 are not interpreted as impliedly repealing or limiting, any privileges, protections or immunities that persons mentioned in those clauses may otherwise possess, an express savings provision is included.

Clause 43 – Facilitating proof of certain things

A document purporting to be signed by the Governor with the seal of the State, or a certified copy of such a document, is evidence that the Governor has appointed a person as a special commissioner.

A transcript of a proceeding that has been certified by a special commissioner is evidence of the proceedings and any statement or disclosure made in those proceedings.

Part 4 – Entry, search and related matters

Clause 44 – When this Part applies

Part 4 becomes operative when the special commissioner is satisfied that the criteria in clause 9(3) exist.

Clause 45 – Enhanced power to enter, search, and detain

- (1) When Part 4 becomes operative a police officer may without a warrant enter and search premises and places and stop and detain persons. The clause also provides that the police officer may use such force as is reasonably necessary.
- (2) Self explanatory.
- (3) Self explanatory.

Clause 46 – Enhanced power to stop, detain, and search

- (1) Sub-clauses 46(1) and (2) provide that the police, without a further warrant, may stop, detain and search a person or any conveyance if they reasonably suspect the person or conveyance is in possession of anything that may be used to commit a s4 offence or anything that may provide evidence.
- (2) Self explanatory
- (3) This sub-clause enables the police to search a person or conveyance, and to detain any person while conducting the search. While the police are searching and seeking evidence, the detained person may not be suspected of committing a crime.
- (4) Self explanatory
- (5) Self explanatory
- (6) Self explanatory

Clause 47 – Provisions about searching a person

- (1) Self explanatory
- (2) Self explanatory
- (3) Self explanatory
- (4) Self explanatory
- (5) This subclause provides legal protection for medical practitioners or registered nurses in respect of reasonable actions whilst carrying out an examination.

(6) This subclause enables the police to use reasonable force where a person resists, for example, while being detained or searched.

(7) Self explanatory

Clause 48 – Extension of power to search

As drugs, money or valuables may be concealed, this clause enables the police to break open objects suspected of containing evidence.

Clause 49 – Things that have been seized

In summary, s714 of *The Criminal Code* provides that seized property under *The Code* must be taken before a justice. The justice may detain the property until the conclusion of an investigation and may be further detained as evidence in any subsequent trial. If the person is found guilty the property may be confiscated. However, if the person is not committed to trial the property is returned to the owner.

This provision applies to goods seized under this Part.

Clause 50 – Offences under this Part

Self explanatory.

Part 5 – Surveillance devices

Clause 51 – Enhanced powers concerning surveillance devices

(1) This Part enables the use of surveillance devices in a greater range of circumstances.

Section 15 of the *Surveillance Devices Act 1998* deals with applications for warrants including who can make application, how application should be made, specify the nature and grounds of the warrant and attach an affidavit. The warrant expires after 90 days and permits entry of premises by force.

Section 16 of the *Surveillance Devices Act 1998* provides that where a written application under s15 is impractical, alternate forms of communication (radio or telephone etc..) may be used.

A section 4 offence is defined in Clause 4 above.

(2) If a police officer applies for a warrant under the *Surveillance Devices Act 1998* in relation to a section 4 offence, this clause changes the standard to which the court must be satisfied from reasonable grounds for believing to reasonable grounds for suspecting it. The justification for these investigative is the fact that the offence is a section 4 offence.

Anything that the warrant may authorise to be done if there is reasonable belief, may be done if there is reasonable suspicion.

Part 6 – Fortifications

Clause 52 – Meaning of terms used in this Part

Self explanatory.

Clause 53 – Issuing fortification warning notice

- (1) The Commissioner of Police may apply by affidavit to a Judge of the Supreme Court for a fortification warning notice.
- (2) Sets out the criteria which must be proved, to the civil standard of the balance of probabilities, before a special commissioner can issue a fortification warning notice. Those criteria are that the premises are heavily fortified and are used as a resort by people who the Police Commissioner suspects are involved in organised crime.
- (3) Self explanatory

Clause 54 – Contents of fortification warning notice

- (1) To ensure that all relevant persons will receive a fortification warning notice, clause 54 requires such a warning notice to be addressed to the owner(s) of premises and to interested persons (defined in clause 52(1) as including lessees and persons occupying or in possession of premises.
- (2) The notice must indicate that a judge can issue a notice if there are reasonable grounds for suspecting the premises are heavily fortified or are used as a resort by people who the Commissioner suspects are involved in organised crime, and that the judge is satisfied in this regard.

To assist persons who receive a fortification warning notice, that notice must provide information about four essential matters

- That the Police Commissioner can within 14 days issue a fortification removal notice
- That the matters (for example “heavily fortified”) about which the owner, lessee or occupier must satisfy the Commissioner of Police to prevent the issuing of a fortification removal notice.
- How a person who receives a fortification warning notice can make a submission to the Commissioner of Police about, for example, the premises being “heavily fortified”
- An explanation of the relevant matters (for example, “ heavily fortified”) about which the Police Commissioner must be satisfied.

The notice shall contain a warning that unless the Commissioner is satisfied that the premises are not fortified or are not used by persons involved in organised crime, a fortification removal notice may be issued.

Clause 55 – Giving fortification warning notice

- (1) Under s76 of the *Interpretation Act 1984*, the service of a document is deemed to have been done if either personally served or posted or if the persons address is unknown – leaving the document at that persons last known address or in the case of a corporation by leaving the document at the principal place of business.
- (2) Self explanatory.
- (3) Self explanatory.
- (4) If service is not executed within 14 days, the notice lapses.

Clause 56 – Withdrawal notice

- (1) Under clause 57, the Commissioner of Police has a discretion whether or not to issue a removal notice. If the Commissioner of Police decides not to issue a fortification removal notice, the Commissioner of Police must issue a withdrawal notice to all persons who receive a fortification warning notice. If the Commissioner makes the decision not to issue a removal notice, a withdrawal notice must be issued by the Commissioner of Police.
- (2) To assist the recipient of a fortification withdrawal notice, that notice must contain information
 - Identifying the premises;
 - Referring to the fortification warning notice; and
 - State that the Police Commissioner has decided not to issue a fortification removal notice
- (3) The requirements for serving a fortification withdrawal notice are the same as those in Clause 55 relating to the giving of a fortification warning notice.

Clause 57 – Issuing fortification removal notice

- (1) The Police Commissioner has a discretion to issue a fortification removal notice 14 days (clause 54) after a person has received a fortification warning notice.
- (2) Before issuing a fortification removal notice, the Police Commissioner must:
 - Consider every submission, that a fortification removal notice not be issued, received within 14 days of the service of a fortification warning notice; and
 - Reasonably believe that the criteria of heavily fortified and habitual usage exist in relation to the specified premises
- (3) Stipulates two situations where a fortification removal notice cannot be issued.

Clause 58 – Contents of fortification removal notice

- (1) Self explanatory.
- (2) The notice must indicate that the offending fortifications must be removed or modified within 7 days to satisfy the Commissioner of Police. Clause 60 enables the Commissioner of Police, if not satisfied that the notice has been complied with, to have the fortifications removed or modified.

Clause 61 enables the owner of a fortified premises to apply to the Supreme Court within 7 days for a review of the Commissioner of Police's decision to issue a removal notice.

- (3) Self explanatory.

Clause 59 – Giving fortification removal notice

Self explanatory.

Clause 60 – Enforcing fortification removal notice

- (1) This clause enables the Commissioner of Police, if not satisfied that the notice has been complied with, to have the fortifications removed or modified.
- (2 – 5) Self explanatory

Clause 61 – Review of fortification removal notice

- (1) The owner of a fortified premise may apply to the Supreme Court within 7 days for a review of the Commissioner of Police's decision to issue a removal notice.
- (2) The Commissioner of Police may request that information supplied to the court be kept confidential and not disclosed to the other parties.
- (3) Only one application can be made for a review.
- (4) The period of time to comply with removal notice is extended to cover the period of time the review is being considered by the court.
- (5 – 7) Self explanatory.

Clause 62 – Hindering removal or modification of fortifications

- (1) Self explanatory
- (2) It is an offence to obstruct the owner or an interested party who is removing offending fortifications from completing their job.

- (3) It is an offence to obstruct the police or someone acting on behalf of the police who is removing offending fortifications from completing their job.

Clause 63 – Planning and other approval issues

Self explanatory.

Clause 64 – No compensation

Self explanatory.

Clause 65 – Protection from liability for wrongdoing

- (1) This clause means that an owner whose property is damaged has no recourse to the courts for any form of compensation for the damage.
- (2) Self explanatory.
- (3) The owner of a fortified premises, or property within the premises, cannot claim that the removal of any offending fortifications could have been done without causing damage to the premises or property.

Part 7 – Other provisions

Clause 66 – *Freedom of Information Act 1992* amended

This clause amends the *Freedom of Information Act 1992* to make a Special commissioner exempt from the operations of the *Freedom of Information Act 1992*.

Clause 67 – Expiry

- (1) This clause provides for a sunset clause in the legislation. Expiry of the primary provisions of this Act after 4 years will enable the effectiveness and the practical operation of the Act to be reviewed and assessed. Subclause 67(3) indicates that the provisions which will expire are: Part 2; Part 3 Divisions 1 and 2; Part 4 other than sections 49 and 50; Part 5; and Part 6 other than sections 62 to 65.
- (2) Clause 67 (2) will permit a person to be prosecuted, convicted and penalties imposed after the Act has ceased to operate when the offence occurred before the Act ceased to operate.

Section 37 of the *Interpretation Act 1984* (WA) provides:

37. General savings on repeal

- (1) Where a written law repeals an enactment, the repeal does not, unless the contrary intention appears —
 - (a) revive anything not in force or existing at the time at which the repeal takes effect;

- (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
 - (c) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;
 - (d) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
 - (e) subject to section 11 of *The Criminal Code* and section 10 of the *Sentencing Act 1995*, affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against that enactment;
 - (f) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture, and
 - (g) any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty or forfeiture may be imposed and enforced as if the repealing written law had not been passed or made.
- (2) The inclusion in the repealing provisions of an enactment of any express saving with respect to the repeals effected thereby shall not be taken to prejudice the operation of this section with respect to the effect of those repeals.

Schedule 1 – Offences that may be relevant for this Act

These offences involve:

The Criminal Code

- s. 278 Wilful murder
- s. 279 Murder
- s. 283 Attempt to murder (except if the circumstances of the attempt or the intended killing are such that, if it were carried out, the crime committed would be infanticide).
- s. 292 Disabling in order to commit indictable offence, etc.
- s. 293 Stupefying in order to commit indictable offence.
- s. 294 Acts intended to cause grievous bodily harm or prevent arrest
- s. 296 Intentionally endangering safety of persons travelling by railway
- s. 296A Intentionally endangering safety of persons travelling by aircraft
- s. 298 Causing explosion likely to endanger life
- s. 332 Kidnapping
- s. 393 Robbery (except in circumstances in which the maximum penalty that can be imposed is imprisonment for 14 years)
- s. 394 Assault with intent to commit robbery

- s. 398 Attempts at extortion by threats
- s. 451 Obstructing and injuring Railways
- s. 451A Endangering the safe use of an aircraft
- s. 454 Causing explosion likely to do serious injury to property
- s. 557 Making or possessing of explosives under suspicious circumstances
- s. 563A Property laundering

Criminal Property Confiscation Act 2000

- s. 50(1) Prohibited dealings

Firearms Act 1973

Offence under regulations made under s. 6(1) that –

- (a) is committed in respect of two or more firearms;
- (b) or is committed in respect of a firearm and in association with the commission, by the same or any other person, of an offence against the *Police Act 1892* s. 65(4aa).

Misuse of Drugs Act 1981

- s. 32A(1)(b) Drug Trafficking in respect of a serious drug offence.