

Criminal Investigation Amendment Bill 2009

CONTENTS

1.	Short title	2
2.	Commencement	2
3.	Act amended	2
4.	Section 69 amended	2
5.	Sections 70A and 70B inserted	2
	70A. People and vehicles in public places in certain areas, additional powers to search	2
	70B. Commissioner may make declarations	4
6.	Section 157 amended	5

Western Australia

LEGISLATIVE ASSEMBLY

Criminal Investigation Amendment Bill 2009

A Bill for

An Act to amend the *Criminal Investigation Act 2006*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Criminal Investigation Amendment Act 2009*.

3 **2. Commencement**

4 This Act comes into operation as follows —

- 5 (a) sections 1 and 2 — on the day on which this Act
6 receives the Royal Assent;
7 (b) the rest of the Act — on the day after that day.

8 **3. Act amended**

9 This Act amends the *Criminal Investigation Act 2006*.

10 **4. Section 69 amended**

11 Delete section 69(1)(a).

12 **5. Sections 70A and 70B inserted**

13 At the end of Part 8 Division 2 insert:
14

15 **70A. People and vehicles in public places in certain areas,
16 additional powers to search**

- 17 (1) The powers in this section may be exercised in a public
18 place by a police officer —
19 (a) if the place is in a prescribed area; or
20 (b) if the place is in an area that is the subject of a
21 declaration made under section 70B(1).
- 22 (2) Regulations that prescribe an area for the purposes of
23 subsection (1)(a) must not be in force in relation to the
24 area for a period that is more than 12 months.
- 25 (3) Regulations made for the purposes of subsection (1)(a)
26 may be expressed to apply at all times or at times
27 specified in the regulations.

- 1 (4) If the powers in this section may be exercised in a
2 public place by a police officer, the officer —
- 3 (a) may do a basic search of a person in the place;
4 and
- 5 (b) if the person is in charge of a vehicle in the
6 place, may search the vehicle; and
- 7 (c) may seize any thing that the officer finds that
8 the officer reasonably suspects does or may
9 endanger the place or people who are in or may
10 enter it; and
- 11 (d) may —
- 12 (i) subject to section 146, seize any thing
13 relevant to an offence that the officer
14 finds; and
- 15 (ii) whether or not the officer seizes it, do a
16 forensic examination on it.
- 17 (5) For the purpose of exercising the powers in
18 subsection (4)(b), the officer may stop and enter the
19 vehicle.
- 20 (6) A thing seized from a person under subsection (4)(c)
21 must be made available to be collected by the person
22 when or as soon as practicable after he or she leaves
23 the place, unless it may be lawfully seized and retained
24 under another provision of this Act or under another
25 written law.
- 26 (7) The *Criminal and Found Property Disposal Act 2006*
27 applies to and in relation to a thing so seized that is
28 made available to but not collected by the person.

- 1 **70B. Commissioner may make declarations**
- 2 (1) The Commissioner may, with the approval of the
- 3 Minister, declare an area to be an area where the
- 4 powers in section 70A may be exercised by a police
- 5 officer in public places.
- 6 (2) The declaration may be expressed to apply at all times
- 7 or at times specified in the declaration.
- 8 (3) The Commissioner must not declare an area larger than
- 9 is reasonably necessary, having regard to the reasons
- 10 for making the declaration referred to in
- 11 subsection (4)(d).
- 12 (4) The Commissioner must make a written record of such
- 13 a declaration and —
- 14 (a) the area to which it applies; and
- 15 (b) the date and time it was made; and
- 16 (c) the period for which it will be in force, which
- 17 must not be more than 2 months; and
- 18 (d) the reasons for making it.
- 19 (5) The Commissioner must publish the written record of
- 20 the declaration in the *Gazette* as soon as is practicable
- 21 after the declaration is made, but the validity of the
- 22 declaration is not affected by a failure to comply with
- 23 this subsection.
- 24 (6) The Commissioner may, in writing, delegate the power
- 25 to make a declaration under subsection (1) to a Deputy
- 26 Commissioner or an Assistant Commissioner.
- 27 (7) A person to whom that power is delegated cannot
- 28 delegate the power.
- 29

1 **6. Section 157 amended**

2 (1) After section 157(1) insert:

3

4 (2A) The Minister must carry out a review of the operation
5 and effectiveness of the amendments made to this Act
6 by the *Criminal Investigation Amendment Act 2009*
7 section 5 as soon as practicable after the expiry of
8 5 years from the commencement of that section.

9

10 (2) In section 157(2) after “review” insert:

11

12 under subsection (1) or (2A)

13

14

