

# Commonwealth Heads of Government Meeting (Special Powers) Bill 2011

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Western Australia

LEGISLATIVE ASSEMBLY

**Commonwealth Heads of Government Meeting  
(Special Powers) Bill 2011**

**A Bill for**

**An Act to give police officers, certain other persons and the  
Corruption and Crime Commission special powers with respect to  
the Commonwealth Heads of Government Meeting in Perth in 2011,  
to amend the *Corruption and Crime Commission Act 2003* and for  
related purposes.**

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary**

2 **1. Short title**

3 This is the *Commonwealth Heads of Government Meeting*  
4 *(Special Powers) Act 2011*.

5 **2. Commencement**

6 This Act comes into operation as follows —

- 7 (a) sections 1 and 2 — on the day on which this Act  
8 receives the Royal Assent;
- 9 (b) sections 3 to 5, 78 and Parts 8 to 10 — on the day after  
10 that day;
- 11 (c) the rest of the Act — on a day fixed by proclamation,  
12 and different days may be fixed for different provisions.

13 **3. Terms used**

14 In this Act (other than Part 8) —

15 *additional security area* means an area that is declared to be an  
16 additional security area by an order made under section 8;

17 *authorised person* means a person appointed under  
18 section 53(1) as an authorised person;

19 *basic search* has the meaning given in section 22(1);

20 *CHOGM event* means any meeting, event, function or activity  
21 that forms part of CHOGM (Perth);

22 *CHOGM period* means the period prescribed by the regulations  
23 for the purposes of this definition;

24 *CHOGM (Perth)* means the Commonwealth Heads of  
25 Government Meeting (*CHOGM*) to be held in Perth during the  
26 CHOGM period;

27 *CHOGM security area* means —

- 28 (a) a core security area; or  
29 (b) an additional security area;



- 1           **Commissioner** means the person holding or acting in the office  
2           of Commissioner of Police under the *Police Act 1892*;
- 3           **core security area** means an area that is declared to be a core  
4           security area by the regulations;
- 5           **excludable person** means a person who may be excluded from a  
6           CHOGM security area under section 40;
- 7           **excluded persons list** means a list compiled under section 39 by  
8           the Commissioner;
- 9           **fail to comply** includes refuse to comply;
- 10          **frisk search** has the meaning given in section 22(2);
- 11          **personal details**, in relation to a person, means —
- 12           (a) the person’s full name; and
- 13           (b) the person’s date of birth; and
- 14           (c) the address where the person is residing; and
- 15           (d) the address where the person usually resides, if that is  
16           different from the address referred to in paragraph (c);
- 17          **police vehicle** means a vehicle used or operated for the purposes  
18          of activities engaged in by a police officer while performing any  
19          functions of a police officer (whether under this Act or  
20          otherwise);
- 21          **prohibited item** means any of the following —
- 22           (a) spray paint cans;
- 23           (b) chains;
- 24           (c) handcuffs or other devices capable of being used to lock  
25           persons to other persons or things;
- 26           (d) poles that are more than one metre in length;
- 27           (e) marbles, ball-bearings or similar spherical items;
- 28           (f) smoke devices;
- 29           (g) flares;
- 30           (h) flammable or noxious liquids or substances;
- 31           (i) offensive liquids or substances;

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- 1 (j) laser pointers;  
2 (k) devices that are capable of being used to interfere with  
3 broadcast or communication devices;  
4 (l) any other things (or things belonging to a class of  
5 things) prescribed by the regulations;

6 **recognised law enforcement officer** means a person who holds  
7 an appointment under section 47;

8 **restricted area** means an area that is designated as a restricted  
9 area by an order made under section 12;

10 **road** —

- 11 (a) has the meaning given in the *Road Traffic Act 1974*  
12 section 5(1); and  
13 (b) includes a private road created under the *Transfer of*  
14 *Land Act 1893* Part IVA or as defined in the *Land*  
15 *Administration Act 1997* section 3(1);

16 **special justification** has the meaning given in section 69;

17 **special power** means a power conferred by any provision of  
18 Part 3 or 4 on a police officer or an authorised person;

19 **vehicle** has the meaning given in the *Road Traffic Act 1974*  
20 section 5(1);

21 **vessel** —

- 22 (a) means any thing used, or capable of being used, in  
23 navigation by water, of whatever size and whether or not  
24 it has any means of propulsion; and  
25 (b) includes —  
26 (i) a hovercraft, seaplane or other similar craft; and  
27 (ii) a submarine or other submersible.

28 **4. Purpose**

- 29 (1) The purpose of this Act is to promote the security and safety of  
30 people attending the Commonwealth Heads of Government  
31 Meeting in Perth in 2011 and associated events, functions and

1 activities by giving police officers, certain other persons and the  
2 Corruption and Crime Commission special powers with respect  
3 to that meeting.

4 (2) The purpose referred to in subsection (1) includes (without  
5 limitation) —

6 (a) promoting the security and safety of the venues and  
7 facilities used for CHOGM (Perth) and associated  
8 events, functions and activities; and

9 (b) promoting the security and safety of the accommodation  
10 for people attending that meeting or those events,  
11 functions and activities.

12 **5. Act binds Crown**

13 This Act binds the State and, so far as the legislative power of  
14 the State permits, the Crown in all its other capacities.

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**Part 2 — CHOGM security areas**

**Division 1 — Core security areas**

**6. Core security areas**

- (1) The regulations may declare one or more areas of land within the State to be core security areas for the purposes of this Act.
- (2) The regulations may declare that an area is a core security area —
  - (a) for the CHOGM period or only for one or more periods within the CHOGM period specified in the regulations; and
  - (b) at all times or only at times specified in the regulations.
- (3) If the regulations do not specify the period for which an area is a core security area, the area is a core security area for the CHOGM period or, if the CHOGM period has already commenced, for the remainder of the CHOGM period.
- (4) If the regulations do not specify, for any period for which an area is a core security area, the times at which the area is a core security area during that period, the area is a core security area at all times during that period.
- (5) Regulations declaring an area to be a core security area may be made before or during the CHOGM period.

**7. Other matters may be stated in regulations declaring core security area**

- Regulations declaring an area to be a core security area may —
- (a) in relation to the exercise of special powers in, or in relation to, that area by authorised persons, specify —
    - (i) which special powers (if any) may be exercised by authorised persons in, or in relation to, that area; and

- 1 (ii) where in that area those special powers, or  
2 particular special powers, may be exercised by  
3 authorised persons; and  
4 (iii) when authorised persons may exercise those  
5 special powers, or particular special powers;  
6 and  
7 (b) state any restrictions that apply to access to the core  
8 security area or a part of the core security area; and  
9 (c) state any conditions that apply to entry to the core  
10 security area or a part of that area.

11 **Division 2 — Additional security areas**

12 **8. Additional security areas**

- 13 (1) The Commissioner may, with the approval of the Minister, by  
14 order, declare an area of land within the State (other than an  
15 area that is in a core security area) to be an additional security  
16 area for the period stated in the order.
- 17 (2) An order made under subsection (1) has effect when it is  
18 published in the *Gazette* unless section 10 applies, in which case  
19 it has effect when the Commissioner signs the order.
- 20 (3) The period for which an area is declared to be an additional  
21 security area must be within the CHOGM period.
- 22 (4) The Commissioner may declare an area to be an additional  
23 security area only if the Commissioner is satisfied that declaring  
24 the area to be an additional security area will substantially assist  
25 in promoting the security or safety of a CHOGM event, people  
26 attending the event or the public or in preventing or controlling  
27 a public disorder.
- 28 (5) An order may declare that an area is an additional security area  
29 at all times or only at times specified in the order.
- 30 (6) If the order does not specify, for the period for which an area is  
31 an additional security area, the times at which the area is an

1 additional security area during that period, the area is an  
2 additional security area at all times during that period.

3 (7) An order under this section may be made before or during the  
4 CHOGM period.

5 **9. Urgent order declaring additional security area**

6 (1) The Commissioner may make an order under section 8 without  
7 the approval of the Minister and without publishing the order in  
8 the *Gazette* if the Commissioner is satisfied —

9 (a) that it is necessary to declare an area to be an additional  
10 security area as a matter of urgency; and

11 (b) that the delay that would be caused by having to obtain  
12 the approval of the Minister to make the order and to  
13 publish the order in the *Gazette* would significantly  
14 compromise the security or safety of a CHOGM event,  
15 people attending the event or the public.

16 (2) If an order is made by the Commissioner in the circumstances  
17 set out in subsection (1) —

18 (a) the order has effect when the Commissioner signs the  
19 order; and

20 (b) as soon as practicable after the order is made, the  
21 Commissioner must —

22 (i) inform the Minister of the making of the order  
23 and its terms; and

24 (ii) ensure that the order is published in the *Gazette*,  
25 unless section 10 applies.

26 (3) A failure to comply with subsection (2)(b) does not affect the  
27 validity of the order.

28 **10. Gazetting of order can be dispensed with**

29 Despite sections 8(2) and 9(2)(b)(ii), the Commissioner does not  
30 have to publish an order made under section 8 in the *Gazette* if  
31 the Commissioner is satisfied that the publication of the order

1 would be likely to significantly compromise the security or  
2 safety of a CHOGM event, people attending the event or the  
3 public.

4 **11. Other matters may be stated in order declaring additional**  
5 **security area**

6 An order under section 8 declaring an area to be an additional  
7 security area may —

- 8 (a) in relation to the exercise of special powers in, or in  
9 relation to, that area by authorised persons, specify —
- 10 (i) which special powers (if any) may be exercised  
11 by authorised persons in, or in relation to, that  
12 area; and
- 13 (ii) where in that area those special powers, or  
14 particular special powers, may be exercised by  
15 authorised persons; and
- 16 (iii) when authorised persons may exercise those  
17 special powers, or particular special powers;
- 18 and
- 19 (b) state any restrictions that apply to access to the  
20 additional security area or a part of the additional  
21 security area; and
- 22 (c) state any conditions that apply to entry to the additional  
23 security area or a part of that area.

24 **Division 3 — Restricted areas**

25 **12. Restricted areas**

- 26 (1) The Commissioner may, by order, designate an area within a  
27 CHOGM security area to be a restricted area for the period (if  
28 any) specified in the order.
- 29 (2) An order under this section has effect when the Commissioner  
30 signs the order.

- 1 (3) The Commissioner may designate an area to be a restricted area  
2 only if the Commissioner is satisfied that —
- 3 (a) the area is being or will be used directly for or in  
4 relation to a CHOGM event or the administration of a  
5 CHOGM event; and
- 6 (b) the exercise of special powers in relation to restricted  
7 areas is necessary to promote the security or safety of  
8 the venues or facilities for a CHOGM event or people  
9 attending the event.
- 10 (4) An area is a restricted area for the purposes of this Act only  
11 for —
- 12 (a) the period specified in the order; or
- 13 (b) if no period is specified in the order, the CHOGM  
14 period or, if the CHOGM period has already  
15 commenced, the remainder of that period.
- 16 (5) An order under this section may be made before or during the  
17 CHOGM period.

18 **13. Public notification of restricted area**

- 19 (1) The Commissioner must take reasonable steps —
- 20 (a) to notify the public that an area has been designated as a  
21 restricted area under section 12 as soon as is reasonably  
22 practicable after the order designating the area is made;  
23 and
- 24 (b) to notify whatever public agencies the Commissioner  
25 considers should be notified of an order that is made (or  
26 is proposed to be made) under section 12 as soon as is  
27 reasonably practicable for the Commissioner to give the  
28 notification.
- 29 (2) Notification by any of the following means is sufficient  
30 compliance with subsection (1)(a) —
- 31 (a) the publication of the terms of the order (or a description  
32 of the restricted area concerned) in the *Gazette*;



- 1 (b) the publication of the terms of the order (or a description  
2 of the restricted area concerned) in a newspaper  
3 circulating generally throughout the State;
- 4 (c) the erection of signs or barriers (or both) around the  
5 whole or part of the perimeter of the restricted area  
6 concerned.
- 7 (3) Subsection (2) does not limit the ways in which the  
8 Commissioner may comply with subsection (1)(a).
- 9 (4) The Commissioner does not have to take steps under this  
10 section if the Commissioner considers that to do so would  
11 significantly compromise security arrangements for a CHOGM  
12 event.
- 13 (5) A failure to comply with subsection (1) does not affect the  
14 validity of an order made under section 12.

15 **Division 4 — Further provisions relating to orders**

16 **14. Application of *Interpretation Act 1984* to orders**

- 17 (1) An order made under section 8 or 12 is not subsidiary  
18 legislation for the purposes of the *Interpretation Act 1984*.
- 19 (2) The *Interpretation Act 1984* sections 43 (other than  
20 subsection (6)) and 44 and Part VIII apply to an order made  
21 under section 8 or 12 as if it were subsidiary legislation.

22 **15. Orders not open to challenge**

- 23 (1) An order made or purportedly made under section 8 or 12 (and  
24 any decision or purported decision of the Minister or the  
25 Commissioner with respect to the order or purported order) may  
26 not be challenged, appealed against, reviewed, quashed or called  
27 into question on any grounds whatsoever before any court,  
28 tribunal, body or person in any legal proceedings, or restrained,  
29 removed or otherwise affected by proceedings for any  
30 injunctive, declaratory or other relief, remedy or order whether  
31 by way of prerogative writ or otherwise.

**Commonwealth Heads of Government Meeting (Special Powers) Bill 2011**

**1B**Part 2 CHOGM security areas

**13B**Division 4 Further provisions relating to orders

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- 1       (2) For the purposes of subsection (1), *legal proceedings* includes  
2       an investigation into police or other conduct under any Act  
3       (other than the *Corruption and Crime Commission Act 2003*).
- 4       (3) This section does not limit judicial review for jurisdictional  
5       error.
- 6       (4) This section expires when the CHOGM period ends.

1 **Part 3 — Special powers in relation to CHOGM**  
2 **security areas**

3 **Division 1 — Application**

4 **16. Special powers only available during CHOGM period**

5 (1) The powers conferred by this Part may be exercised only during  
6 the CHOGM period in, or in relation to, a CHOGM security  
7 area.

8 (2) Subsection (1) is subject to Division 5.

9 **17. Restrictions on exercise of special powers**

10 The powers conferred by this Part may be exercised only in  
11 accordance with the terms of any regulations or orders made  
12 under this Act which limit —

- 13 (a) who may exercise special powers in, or in relation to, a  
14 CHOGM security area or a part of a CHOGM security  
15 area; or
- 16 (b) which special powers may be exercised in, or in relation  
17 to, a CHOGM security area or a part of a CHOGM  
18 security area; or
- 19 (c) where in a CHOGM security area or a part of a  
20 CHOGM security area special powers may be exercised;  
21 or
- 22 (d) when special powers may be exercised in, or in relation  
23 to, a CHOGM security area or a part of a CHOGM  
24 security area.

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**Division 2 — Stop and search powers**

**Subdivision 1 — Check points, cordons and roadblocks**

**18. Check points, cordons and roadblocks**

- (1) A police officer or an authorised person may, for either or both of the purposes mentioned in subsection (2) —
- (a) establish one or more check points; or
  - (b) place one or more cordons around an area; or
  - (c) establish one or more roadblocks on any road that leads into or out of, or that is located in, an area.
- (2) The purposes referred to in subsection (1) are —
- (a) stopping and searching persons, vehicles or vessels under this Part; and
  - (b) preventing persons entering or leaving a CHOGM security area without the permission of a police officer or an authorised person.
- (3) A police officer or an authorised person exercising a power conferred by this section may be assisted by any persons the police officer or authorised person considers necessary.
- (4) A police officer or an authorised person exercising a power conferred by this section must not refuse permission for a person to leave a CHOGM security area unless it is reasonably necessary to do so to avoid a risk to public safety or to the person’s own safety.
- (5) A check point, cordon or roadblock may consist of any appropriate form of physical barrier or obstruction preventing or limiting the passage of persons, vehicles or vessels.

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**Subdivision 2 — Powers in relation to people**

**19. Power to require disclosure of identity**

- (1) A police officer or an authorised person may, without warrant —
- (a) stop a person who is seeking to enter a CHOGM security area and require, as a condition of entry, that the person disclose the person’s personal details; or
  - (b) stop a person who is in a CHOGM security area and require the person to disclose the person’s personal details.
- (2) A police officer or an authorised person may also require a person who is required under this section to disclose the person’s personal details to provide proof of those personal details.
- (3) A police officer or an authorised person who requires a person to disclose the person’s personal details or provide proof of the person’s personal details must also warn the person that failure to comply with the requirement may result in the person being refused entry to the CHOGM security area or, as the case requires, removed from the CHOGM security area.

**20. Power to require reasons for entry to, or presence in, CHOGM security area**

- (1) A police officer or an authorised person may, without warrant —
- (a) stop a person who is seeking to enter a CHOGM security area and require, as a condition of entry, that the person state the person’s reason for wanting to enter; or
  - (b) stop a person who is in a CHOGM security area and require the person to state the person’s reason for being in the area.
- (2) A police officer or an authorised person who requires a person to state the information specified in subsection (1) must also

1 warn the person that failure to provide a good and lawful reason  
2 to enter the CHOGM security area or, as the case requires, to be  
3 in the CHOGM security area may result in the person being  
4 refused entry to the CHOGM security area or, as the case  
5 requires, removed from the CHOGM security area.

6 **21. Power to search persons**

7 (1) A police officer or an authorised person may, without  
8 warrant —

- 9 (a) stop a person who is seeking to enter a CHOGM  
10 security area and require, as a condition of entry, that the  
11 person submit to a search of the person; or  
12 (b) stop and search a person who is in a CHOGM security  
13 area.

14 (2) A police officer or an authorised person who requires a person  
15 to submit to a search under this section must also warn the  
16 person that failure to comply with the requirement may result in  
17 the person being refused entry to the CHOGM security area or,  
18 as the case requires, removed from the CHOGM security area.

19 (3) A police officer who is authorised by this section to search a  
20 person may do a basic search of the person.

21 (4) An authorised person who is authorised by this section to search  
22 a person may do a basic search of the person, except that the  
23 authorised person must not do a frisk search of the person.

24 **22. Basic searches and frisk searches**

25 (1) A person who is authorised by section 21 to do a basic search of  
26 another person may do any or all of the following —

- 27 (a) scan the other person with an electronic or mechanical  
28 device, whether hand held or not, to detect any thing;  
29 (b) remove the other person's headwear, gloves, footwear or  
30 outer clothing (such as a coat or jacket), but not his or  
31 her inner clothing or underwear;

- 1 (c) if the searcher is a police officer, frisk search the other  
2 person;
- 3 (d) search any article removed under paragraph (b).
- 4 (2) A police officer who is authorised by this section to do a frisk  
5 search of another person may quickly and methodically run his  
6 or her hands over the outside of the other person's clothing.
- 7 (3) If a police officer is authorised by this section to do a frisk  
8 search of another person, the searcher must, if practicable, be a  
9 person of the same gender as the person being searched.
- 10 (4) If a basic search is done of a person under section 21 —
- 11 (a) it must be done as quickly as is reasonably practicable;  
12 and
- 13 (b) it must not be any more intrusive than is reasonably  
14 necessary in the circumstances; and
- 15 (c) the searcher, if he or she proposes to remove any article  
16 that the person is wearing, must tell the person why it is  
17 considered necessary to do so.

18 **23. Ancillary powers for searches**

- 19 (1) A person who is authorised by section 21 to search another  
20 person may do any or all of the following for the purposes of  
21 doing the search —
- 22 (a) detain the other person for as long as is reasonably  
23 necessary to conduct the search;
- 24 (b) search any thing being carried by or under the  
25 immediate control of the other person;
- 26 (c) order the other person to remove, from any article that  
27 the person is wearing, any thing that might injure the  
28 searcher when doing the search;
- 29 (d) order the other person to do anything reasonable to  
30 facilitate the exercise by the searcher of any power in  
31 this section or in section 22.

- 1 (2) A person who is detained under subsection (1)(a) is to be taken  
2 to be in lawful custody.
- 3 **24. Use of electronic screening devices**
- 4 (1) This section applies if the security system for a CHOGM event  
5 involves the use of one or more of the following electronic  
6 screening devices —
- 7 (a) a walk-through detector;  
8 (b) an X-ray machine;  
9 (c) a hand held scanner.
- 10 (2) A police officer or an authorised person may, without  
11 warrant —
- 12 (a) stop a person who is seeking to enter a CHOGM  
13 security area and require, as a condition of entry, that the  
14 person do one or more of the things mentioned in  
15 subsection (3); or
- 16 (b) stop a person who is in a CHOGM security area and  
17 require that the person do one or more of the things  
18 mentioned in subsection (3).
- 19 (3) The things referred to in subsection (2) are —
- 20 (a) to walk through a walk-through detector;  
21 (b) to pass the person’s belongings through an X-ray  
22 machine;  
23 (c) to allow the police officer or authorised person to pass a  
24 hand held scanner in close proximity to the person;  
25 (d) to allow the police officer or authorised person to pass a  
26 hand held scanner in close proximity to the person’s  
27 belongings.
- 28 (4) A police officer or an authorised person who requires a person  
29 to do one or more of those things must also warn the person that  
30 failure to comply with the requirement may result in the person



1 being refused entry to the CHOGM security area or, as the case  
2 requires, removed from the CHOGM security area.

3 **Subdivision 3 — Powers in relation to vehicles and vessels**

4 **25. Power to stop and search vehicles or vessels**

5 (1) A police officer or an authorised person may, without warrant,  
6 do any of the following —

7 (a) stop a vehicle or vessel seeking to enter a CHOGM  
8 security area and require, as a condition of entry, that the  
9 person in charge of the vehicle or vessel submit the  
10 vehicle or vessel to a search;

11 (b) stop and search any vehicle or vessel that is in a  
12 CHOGM security area.

13 (2) A police officer or an authorised person who requires a person  
14 in charge of a vehicle or vessel to submit the vehicle or vessel to  
15 a search under this section must also warn the person that failure  
16 to comply with the requirement may result in the vehicle or  
17 vessel being refused entry to the CHOGM security area or, as  
18 the case requires, removed from the CHOGM security area.

19 (3) A person who is authorised by this section to search a vehicle or  
20 vessel may do any or all of the following for the purposes of  
21 doing the search —

22 (a) detain the vehicle or vessel for as long as is reasonably  
23 necessary to conduct the search;

24 (b) move, or require the person in charge of the vehicle or  
25 vessel to move, the vehicle or vessel to a place suitable  
26 to conduct the search;

27 (c) search any thing in or on the vehicle or vessel.

1           **Division 3 — Surrender and seizure of prohibited items**

2   **26. Power to require surrender of, or to seize and detain,**  
3   **prohibited items**

4       (1) A police officer or an authorised person may, in connection with  
5       a search under this Part, do any of the following —

6           (a) require a person that the officer or authorised person  
7           reasonably suspects to be in possession or have control  
8           of a prohibited item without special justification to  
9           surrender the item to the officer or authorised person as  
10          a condition of entry into a CHOGM security area;

11          (b) seize and detain in a CHOGM security area all or part of  
12          a thing that the officer or authorised person reasonably  
13          suspects to be a prohibited item that is in the possession  
14          or control of a person without special justification.

15       (2) A power conferred by this section to require the surrender of, or  
16       to seize and detain, a thing includes —

17           (a) a power to remove a thing from the place where it is  
18           found; and

19           (b) a power to guard the thing in or on the place where it is  
20           found.

21       (3) A police officer or an authorised person must inform the person  
22       who is in possession or has control of the thing that the officer  
23       or authorised person requires the person to surrender, or that the  
24       officer or authorised person is to seize, that the thing might not  
25       be returned to the person.

26       (4) A police officer or an authorised person must comply with  
27       subsection (3) —

28           (a) if it is practicable to do so, before or at the time of  
29           exercising the power; or

30           (b) if it is not practicable to do so, as soon as is reasonably  
31           practicable after exercising the power.

1 (5) A failure by a police officer or an authorised person to comply  
2 with subsection (3) does not affect the validity of any exercise  
3 of a power under this section.

4 **27. Disposal of prohibited items surrendered, seized or detained**

5 (1) A police officer or an authorised person to whom a thing is  
6 surrendered, or who seizes a thing, under section 26 need not  
7 return it to the person who surrendered it or from whom it was  
8 seized.

9 (2) If a thing that has been surrendered or seized under section 26 is  
10 not returned to the person who surrendered it or from whom it  
11 was seized within the period of 24 hours after its surrender or  
12 seizure —

13 (a) the thing is forfeited to the Crown on the expiry of that  
14 period; and

15 (b) no compensation is payable in respect of that forfeiture.

16 (3) If an authorised person does not return a thing to the person who  
17 surrendered it or from whom it was seized, the authorised  
18 person must deliver the thing to a police officer.

19 **28. Power to seize things relevant to offence**

20 (1) In this section —

21 *thing relevant to an offence* has the meaning given in the  
22 *Criminal Investigation Act 2006* section 5.

23 (2) If a police officer doing a search under this Part finds a thing  
24 that is not a prohibited item but that is a thing relevant to an  
25 offence, the police officer may seize it if one or more of the  
26 grounds for seizing an item set out in the *Criminal Investigation*  
27 *Act 2006* section 146 apply.

28 (3) The *Criminal Investigation Act 2006* sections 147 to 151 apply  
29 to and in respect of the seizing of things under this section as if  
30 it were the seizing under that Act of things relevant to an  
31 offence.

1 **29. Application of *Criminal and Found Property Disposal***  
2 ***Act 2006***

3 The *Criminal and Found Property Disposal Act 2006* applies to  
4 and in respect of —

- 5 (a) any thing that is forfeited to the Crown under section 27;  
6 and  
7 (b) any thing that is seized under section 28.

8 **Division 4 — Directions**

9 **30. Power to give directions**

- 10 (1) A police officer or an authorised person may give a direction to  
11 any person, or any group of persons assembled, in a CHOGM  
12 security area.
- 13 (2) A direction under this section must be reasonable in the  
14 circumstances for the purpose of substantially assisting in  
15 promoting the security or safety of a CHOGM event, people  
16 attending the event or the public or in preventing or controlling  
17 a public disorder.
- 18 (3) A direction under this section is to be given orally and, if given  
19 to a group of persons, is to be given in a manner that is likely to  
20 be audible to all persons in that group, or to as many of them as  
21 practicable.
- 22 (4) If a direction under this section is given to a group of persons, it  
23 is not necessary for the police officer or authorised person to  
24 repeat the direction to each person in the group.
- 25 (5) However, just because the police officer or authorised person is  
26 not required to repeat a direction does not in itself give rise to  
27 any presumption that each person in the group has received the  
28 direction.

**Division 5 — Road closures**

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**31. Power to close roads**

(1) In this section —

*relevant road* means —

- (a) a road in a CHOGM security area; or
- (b) a road leading to or from a CHOGM security area; or
- (c) a road in the vicinity of a CHOGM security area; or
- (d) a road along a route being taken, or to be taken, by vehicles that are being, or are to be, used for conveying people attending CHOGM (Perth) to or from their accommodation, an airport or a venue or facility for a CHOGM event.

(2) A police officer or an authorised person may, at the direction of the Commissioner, close any relevant road for any of the following purposes —

- (a) facilitating the conduct of a CHOGM event;
- (b) controlling and regulating vehicular or pedestrian traffic at or near any venue or facility for a CHOGM event;
- (c) facilitating the movement of vehicles that are being, or are to be, used for conveying people attending CHOGM (Perth) to or from their accommodation, an airport or a venue or facility for a CHOGM event;
- (d) ensuring the safety of persons;
- (e) protecting property from damage.

(3) A road may be closed by means of any appropriate form of physical barrier or obstruction preventing or limiting the passage of vehicles or persons or by whatever other means the police officer or authorised person considers appropriate.

(4) It is not necessary to give public notice of the closure of a road under this section.

- 1 (5) It is the duty of any police officer or authorised person closing a  
2 road under this section to ensure that the road is not closed for a  
3 period that is longer than is necessary to serve the purpose for  
4 which the road is closed.

5 **32. Effect of road closure**

- 6 (1) In this section, *use* a road includes —  
7 (a) any use of the road by pedestrians; and  
8 (b) driving, leaving, parking, standing or stopping a vehicle  
9 on the road.
- 10 (2) A person or vehicle must not use a road while it is closed under  
11 this Division unless —  
12 (a) the person is a police officer or an authorised person or a  
13 designated person; or  
14 (b) the vehicle is a police vehicle or a designated vehicle.
- 15 (3) A person or vehicle is a *designated person* or *designated*  
16 *vehicle*, in relation to a road, if the person or vehicle is  
17 authorised (or belongs to a class of persons or vehicles that is  
18 authorised) to use the road by the Commissioner or a police  
19 officer.
- 20 (4) An authorisation for the purposes of this section may be given  
21 orally or in writing.
- 22 (5) A road, or any part of a road, does not cease to be a road for the  
23 purposes of the *Road Traffic Act 1974*, the *Motor Vehicle (Third*  
24 *Party Insurance) Act 1943* or any other written law because it is  
25 closed or its use, or access to it, is restricted under this Division.

26 **Division 6 — Removal of vehicles, vessels and things**

27 **33. Removal of vehicles, vessels and things from CHOGM**  
28 **security area**

- 29 (1) A police officer or an authorised person may remove or cause to  
30 be removed from a CHOGM security area any vehicle, vessel or

1           thing if the police officer or authorised person is of the opinion  
2           that it is necessary to do so.

3           (2) The power conferred by subsection (1) may be exercised even  
4           though the vehicle, vessel or thing is lawfully in the CHOGM  
5           security area.

6           **34. Removal of unauthorised vehicles or things from closed**  
7           **road**

8           A police officer or an authorised person may remove or cause to  
9           be removed any vehicle or other thing from a road that is closed  
10          under Division 5 if the police officer or authorised person is of  
11          the opinion that it is necessary to do so.

12          **35. Further provisions relating to removal of vehicles etc.**

13          (1) A police officer or an authorised person exercising a power  
14          conferred by section 33 or 34 may be assisted by any persons  
15          the police officer or authorised person considers necessary.

16          (2) A vehicle, vessel or thing may be removed under section 33  
17          or 34 to a police station or any other place where it may  
18          conveniently be detained.

19          (3) A police officer or an authorised person, and any person  
20          assisting a police officer or an authorised person, may drive,  
21          tow or otherwise convey a vehicle or vessel removed under  
22          section 33 or 34 —

23                  (a) to the place where the vehicle or vessel is to be stored;  
24                  or

25                  (b) at the place where the vehicle or vessel is stored.

26          **36. Additional powers in relation to removing vehicles and**  
27          **vessels**

28          (1) For the purpose of removing a vehicle or vessel under  
29          section 33 or 34, a police officer or an authorised person, and  
30          any person assisting a police officer or an authorised person,  
31          may take any action that is reasonable or necessary to facilitate

1 the removal of the vehicle or vessel in a manner that does the  
2 least damage to the vehicle or vessel.

3 (2) In taking any action authorised by subsection (1), the police  
4 officer, authorised person or person assisting is not liable for  
5 any damage to the vehicle or vessel that the police officer,  
6 authorised person or person assisting causes.

7 **37. Notification of removal**

8 (1) As soon as reasonably practicable after the removal of a vehicle,  
9 vessel or thing under section 33 or 34, the police officer or  
10 authorised person who removed the vehicle, vessel or thing is to  
11 give to the owner of the vehicle, vessel or thing notice of the  
12 removal and stating the place where the vehicle, vessel or thing  
13 is kept.

14 (2) Subsection (1) does not apply where the police officer or  
15 authorised person does not know who owns the vehicle, vessel  
16 or thing.

17 **38. Application of *Criminal and Found Property Disposal***  
18 ***Act 2006***

19 If any vehicle, vessel or thing is removed under section 33  
20 or 34 —

21 (a) the vehicle, vessel or thing is to be taken to be found  
22 property in the possession of the Commissioner for the  
23 purposes of the *Criminal and Found Property Disposal*  
24 *Act 2006*; and

25 (b) that Act applies to and in respect of the vehicle, vessel  
26 or thing accordingly.



1 **Division 7 — Powers to refuse entry to, and remove from,**  
2 **security area**

3 **39. Excluded persons list**

4 (1) The Commissioner may compile one or more lists of persons  
5 (an *excluded persons list*) who the Commissioner is satisfied  
6 are persons who would pose serious threats to the safety of  
7 persons or property (or both) in a CHOGM security area during  
8 the CHOGM period.

9 (2) The Commissioner may (but need not) cause an excluded  
10 persons list to be published by whatever means the  
11 Commissioner considers appropriate.

12 (3) Without limiting subsection (2), an excluded persons list may be  
13 published —

14 (a) in the *Gazette*; or

15 (b) in any newspaper published in the State (whether or not  
16 circulating generally throughout the State); or

17 (c) on a website.

18 (4) A failure by the Commissioner to notify the public of the  
19 contents of an excluded persons list does not affect the validity  
20 of the list or otherwise limit any powers conferred by this Act in  
21 relation to persons named in the list.

22 **40. Exclusion of persons from CHOGM security areas**

23 (1) The following persons (*excludable persons*) may be excluded  
24 from any CHOGM security area during the CHOGM period (or  
25 any part of that period) —

26 (a) any person who, without lawful excuse, fails to comply  
27 with a requirement made of the person under section 19  
28 for the person to disclose the person's personal details,  
29 or provide proof of the person's personal details, as a  
30 condition of entry into a CHOGM security area or when  
31 the person is in a CHOGM security area;

- 1 (b) any person who, when required under section 20 by a  
2 police officer or an authorised person to state the  
3 person's reason for wanting to enter, or for being in, a  
4 CHOGM security area, fails to satisfy the police officer  
5 or authorised person that the person has a good and  
6 lawful reason to enter or be in the CHOGM security area  
7 or a particular part of the CHOGM security area;
- 8 (c) any person who, without lawful excuse, fails to comply  
9 with a requirement made of the person under section 21  
10 for the person to submit to a search as a condition of  
11 entry into a CHOGM security area or when the person is  
12 in a CHOGM security area;
- 13 (d) any person who, without lawful excuse, fails to comply  
14 with a requirement made of the person under section 24  
15 for the person to do one or more of the things listed in  
16 section 24(3) as a condition of entry into a CHOGM  
17 security area or when the person is in a CHOGM  
18 security area;
- 19 (e) any person in or on a vehicle or vessel seeking to enter a  
20 CHOGM security area in circumstances where the  
21 person in charge of the vehicle or vessel fails, without  
22 lawful excuse, to comply with a requirement made of  
23 the person under section 25 to submit the vehicle or  
24 vessel to a search as a condition of entry into the area;
- 25 (f) any person in or on a vehicle or vessel that is in a  
26 CHOGM security area in circumstances where the  
27 person in charge of the vehicle or vessel fails, without  
28 lawful excuse, to comply with a requirement made of  
29 the person under section 25 to submit the vehicle or  
30 vessel to a search;
- 31 (g) any person who, without lawful excuse, resists, hinders  
32 or obstructs a police officer or an authorised person  
33 conducting a search under this Part in a CHOGM  
34 security area;

- 1 (h) any person who, without special justification, fails to  
2 surrender a prohibited item to a police officer or an  
3 authorised person as a condition of entry into a CHOGM  
4 security area;
- 5 (i) any person who, without special justification, is in  
6 possession or has control of a prohibited item in a  
7 CHOGM security area;
- 8 (j) any person who, without lawful excuse, fails to comply  
9 with a reasonable direction given under section 30 to the  
10 person in a CHOGM security area by a police officer or  
11 an authorised person;
- 12 (k) any person who, without lawful excuse, is on a road that  
13 is closed under Division 5;
- 14 (l) any person who, without lawful excuse, fails to comply  
15 with a restriction that applies, under section 7(b)  
16 or 11(b), to access to a CHOGM security area or part of  
17 a CHOGM security area;
- 18 (m) any person who, without lawful excuse, fails to comply  
19 with a condition that applies, under section 7(c) or 11(c),  
20 to entry to a CHOGM security area or part of a CHOGM  
21 security area;
- 22 (n) any person whose name appears on an excluded persons  
23 list.
- 24 (2) A police officer or an authorised person may, during the  
25 CHOGM period, do any of the following —
- 26 (a) prevent an excludable person from entering any  
27 CHOGM security area;
- 28 (b) remove an excludable person from any CHOGM  
29 security area to another place within that or another  
30 CHOGM security area or to a place outside the  
31 CHOGM security areas;
- 32 (c) require an excludable person to disclose his or her  
33 personal details or provide proof of his or her personal

**Commonwealth Heads of Government Meeting (Special Powers) Bill 2011**

**2BPart 3** Special powers in relation to CHOGM security areas

**20BDivision 7** Powers to refuse entry to, and remove from, security area

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- 1 details (or both) when removing the person from a  
2 CHOGM security area;
- 3 (d) without limiting paragraph (a), (b) or (c), remove any  
4 person who, without lawful excuse, is on a road that is  
5 closed under Division 5 to a place away from the road.
- 6 (3) Any action taken under subsection (2) does not prevent the  
7 taking of proceedings in respect of an offence.

1 **Part 4 — Additional special powers in relation to**  
2 **restricted areas**

3 **Division 1 — Preliminary**

4 **41. Relationship of this Part with Part 3**

5 Any power conferred by this Part in relation to a restricted area  
6 is in addition to, and does not derogate from, any power  
7 conferred in relation to a restricted area by Part 3.

8 **Division 2 — Special powers in relation to restricted areas**

9 **42. Powers available only during CHOGM period**

10 The powers conferred by this Division may be exercised only  
11 during the CHOGM period in, or in relation to, a restricted area.

12 **43. Restrictions on exercise of special powers**

13 The powers conferred by this Division may be exercised only in  
14 accordance with the terms of any regulations or orders made  
15 under this Act which limit —

- 16 (a) who may exercise special powers in, or in relation to, a  
17 CHOGM security area or a part of a CHOGM security  
18 area; or
- 19 (b) which special powers may be exercised in, or in relation  
20 to, a CHOGM security area or a part of a CHOGM  
21 security area; or
- 22 (c) where in a CHOGM security area or a part of a  
23 CHOGM security area special powers may be exercised;  
24 or
- 25 (d) when special powers may be exercised in, or in relation  
26 to, a CHOGM security area or a part of a CHOGM  
27 security area.

- 1     **44.     Power to enter and search premises**
- 2         (1) A police officer may, without warrant, enter and search any  
3             premises located in a restricted area.
- 4         (2) The police officer must do as little damage as possible.
- 5         (3) This section does not authorise a police officer to enter any part  
6             of premises being used for residential purposes, except —
- 7             (a) with the consent of the occupier of the part of the  
8                 premises; or
- 9             (b) under the authority of a search warrant or under another  
10                 written law that authorises the entry.
- 11     **45.     Power to obtain disclosure of identity**
- 12         (1) A police officer or an authorised person may, without warrant,  
13             require a person whose identity is unknown to the officer or  
14             authorised person to disclose his or her personal details if —
- 15             (a) the person is seeking to enter a restricted area (whether  
16                 or not in or on a vehicle or vessel); or
- 17             (b) the person is in a restricted area (whether or not in or on  
18                 a vehicle or vessel).
- 19         (2) A police officer or an authorised person may also require a  
20             person who is required under this section to disclose his or her  
21             personal details to provide proof of his or her personal details.
- 22         (3) A police officer or an authorised person who requires a person  
23             to disclose the person’s personal details or to provide proof of  
24             the person’s personal details must also warn the person that  
25             failure to comply with the requirement may result in the person  
26             being refused entry to the restricted area or, as the case requires,  
27             removed from the restricted area.

1 **Division 3 — Exclusion of persons from restricted areas**

2 **46. Exclusion of persons from restricted areas**

3 (1) A police officer or an authorised person may, during the  
4 CHOGM period, do any of the following —

5 (a) prevent a person from entering a restricted area if the  
6 person, without lawful excuse, fails to comply with a  
7 requirement made of the person under section 45 to  
8 disclose his or her personal details or provide proof of  
9 his or her personal details;

10 (b) remove any of the following persons from any restricted  
11 area to another place within that or another CHOGM  
12 security area or to a place outside the CHOGM security  
13 areas —

14 (i) any person who, without special justification, is  
15 in possession or has control of a prohibited item  
16 in a restricted area;

17 (ii) any person who, without special justification, is  
18 in a restricted area;

19 (iii) any person who, without lawful excuse, fails to  
20 comply with a requirement made of the person  
21 under section 45 to disclose his or her personal  
22 details or provide proof of his or her personal  
23 details.

24 (2) Any action taken under this section does not prevent the taking  
25 of proceedings in respect of an offence.

1 **Part 5 — Recognition of law enforcement officers and**  
2 **authorised persons**

3 **Division 1 — Recognition of law enforcement officers of**  
4 **other jurisdictions**

5 **47. Recognition of law enforcement officers of other**  
6 **jurisdictions**

- 7 (1) The Commissioner may appoint as a recognised law  
8 enforcement officer for the purposes of this Act any person  
9 who is —  
10 (a) a member of the Australian Federal Police; or  
11 (b) a member of the police force of another State or of a  
12 Territory; or  
13 (c) an employee of the New Zealand Police who holds the  
14 office of constable.
- 15 (2) The Commissioner must not make an appointment under  
16 subsection (1) unless he or she is of the opinion that the  
17 appointment is necessary for the purposes of securing the safety  
18 or security of a CHOGM event, people attending the event or  
19 the public or in preventing or controlling a public disorder.
- 20 (3) The appointment of a recognised law enforcement officer —  
21 (a) must be in writing; and  
22 (b) must state the date and time it is made; and  
23 (c) must state the date and time it ceases to have effect; and  
24 (d) may be made subject to any condition the Commissioner  
25 thinks fit; and  
26 (e) must be signed by the Commissioner.
- 27 (4) The date and time stated under subsection (3)(c) must not be  
28 after the expiry of the CHOGM period.
- 29 (5) The appointment of 2 or more recognised law enforcement  
30 officers may be in one instrument of appointment.



1     **48.     Cancellation, expiry and re-appointment**

2     (1)    The Commissioner may cancel the appointment of a recognised  
3     law enforcement officer at any time.

4     (2)    A recognised law enforcement officer's appointment has effect  
5     until the sooner of any of the following —

6         (a)   the date and time it ceases to have effect, as stated in the  
7         instrument of appointment;

8         (b)   it is cancelled under this section;

9         (c)   the expiry of the CHOGM period.

10    (3)    A recognised law enforcement officer's appointment cannot be  
11    extended, but the Commissioner may make a further  
12    appointment under section 47 that has effect immediately an  
13    earlier appointment ceases to have effect.

14    **49.     Functions of recognised law enforcement officers**

15    (1)    A recognised law enforcement officer —

16         (a)   has and may perform any function that a police officer  
17         has and may perform under this Act (other than Part 8);  
18         and

19         (b)   in connection with the performance of any function  
20         referred to in paragraph (a), has and may perform any  
21         function that a police officer has under any other written  
22         law or the common law.

23    (2)    Subsection (1) is subject to any conditions to which a  
24    recognised law enforcement officer's appointment is subject.

25    **50.     Command and control of recognised law enforcement**  
26    **officers**

27         Recognised law enforcement officers remain under the  
28         command and control of the police force of which they are  
29         members or employees during the term of their appointment  
30         under this Division.

1 **51. Identity card**

2 (1) The Commissioner must give each recognised law enforcement  
3 officer an identity card.

4 (2) The identity card must —

5 (a) contain a recent photograph or digital image of the  
6 recognised law enforcement officer; and

7 (b) be signed by the recognised law enforcement officer;  
8 and

9 (c) identify the person as a recognised law enforcement  
10 officer; and

11 (d) include an expiry date; and

12 (e) state a unique identifying number.

13 (3) A person who ceases to be a recognised law enforcement officer  
14 must return the person's identity card to the Commissioner as  
15 soon as practicable (but within 21 days) after the person ceases  
16 to be a recognised law enforcement officer.

17 **52. Production or display of identity card**

18 (1) A recognised law enforcement officer may exercise a power in  
19 relation to another person only if —

20 (a) the recognised law enforcement officer first produces  
21 his or her identity card for the other person's inspection;  
22 or

23 (b) the recognised law enforcement officer has his or her  
24 identity card displayed so that it is clearly visible to the  
25 other person.

26 (2) However, if for any reason it is not practicable for a recognised  
27 law enforcement officer to comply with subsection (1) before  
28 exercising the power, the recognised law enforcement officer  
29 must produce the identity card for inspection by the other  
30 person as soon as it is practicable.

**Division 2 — Authorised persons**

**53. Appointment of authorised persons**

(1) The Commissioner may appoint a person as an authorised person for the purposes of this Act.

(2) The Commissioner may appoint a person to be an authorised person only if the Commissioner believes that the person has the necessary expertise or experience to be an authorised person.

(3) The appointment of an authorised person —

(a) must be in writing; and

(b) must state the date and time it is made; and

(c) must state the date and time it ceases to have effect; and

(d) must state the matters required by section 55; and

(e) may be made subject to any condition the Commissioner thinks fit; and

(f) must be signed by the Commissioner.

(4) The date and time stated under subsection (3)(c) must not be after the expiry of the CHOGM period.

**54. Cancellation and expiry**

(1) The Commissioner may cancel the appointment of an authorised person at any time.

(2) An authorised person's appointment has effect until the sooner of any of the following —

(a) the date and time it ceases to have effect, as stated in the instrument of appointment;

(b) it is cancelled under this section;

(c) the expiry of the CHOGM period.

1 **55. Statement of powers**

2 (1) The instrument of appointment of an authorised person must  
3 state the following —

- 4 (a) the powers of an authorised person that the appointee  
5 may exercise under this Act;  
6 (b) the time or times when those powers may be exercised;  
7 (c) the place or places where those powers may be  
8 exercised.

9 (2) If the appointee is to be able to exercise all the powers of an  
10 authorised person under this Act, then the instrument of  
11 appointment may contain a statement to that effect.

12 (3) If the appointee is to be able to exercise only some of the  
13 powers of an authorised person under this Act, then the  
14 instrument of appointment must state the particular powers that  
15 the appointee is able to exercise.

16 **56. Identity card**

17 (1) The Commissioner must give each authorised person an identity  
18 card.

19 (2) The identity card must —

- 20 (a) contain a recent photograph or digital image of the  
21 authorised person; and  
22 (b) be signed by the authorised person; and  
23 (c) identify the person as an authorised person; and  
24 (d) include an expiry date; and  
25 (e) state a unique identifying number.

26 (3) A person who ceases to be an authorised person must return the  
27 person's identity card to the Commissioner as soon as  
28 practicable (but within 21 days) after the person ceases to be an  
29 authorised person.

1 (4) Section 67 makes failure to comply with subsection (3) without  
2 reasonable excuse an offence.

3 **57. Production or display of identity card**

4 (1) An authorised person may exercise a power in relation to  
5 another person only if —

6 (a) the authorised person first produces his or her identity  
7 card for the other person’s inspection; or

8 (b) the authorised person has his or her identity card  
9 displayed so that it is clearly visible to the other person.

10 (2) However, if for any reason it is not practicable for an authorised  
11 person to comply with subsection (1) before exercising the  
12 power, the authorised person must produce the identity card for  
13 inspection by the other person as soon as it is practicable.

14 **Division 3 — General**

15 **58. Appointment does not make appointee public servant**

16 The appointment of a person under this Part as a recognised law  
17 enforcement officer or an authorised person —

18 (a) does not make the provisions of the *Public Sector*  
19 *Management Act 1994* Part 3 or of any Act applying to  
20 persons employed in the Public Service applicable to the  
21 person; or

22 (b) in the case of an authorised person, does not affect or  
23 prejudice the application to the person of those  
24 provisions if they applied to the person at the time of the  
25 person’s appointment.

26 **59. Appointees are public officers**

27 Recognised law enforcement officers and authorised persons are  
28 to be taken to be public officers for the purposes of *The*  
29 *Criminal Code*.

1 **Part 6 — Offences**

2 **Division 1 — Offences relating to CHOGM security areas**

3 **60. Unauthorised entry to CHOGM security area**

4 A person must not enter or remain in a CHOGM security area  
5 unless the person —

- 6 (a) has the consent of the organiser of the CHOGM event  
7 being held or to be held in the area; or  
8 (b) has a special justification to enter or remain in the area;  
9 or  
10 (c) is otherwise authorised to enter or remain in the area.

11 Penalty: imprisonment for 12 months.

12 **61. Unauthorised entry to restricted area**

- 13 (1) A person must not, without reasonable excuse, enter or remain  
14 in a restricted area.

15 Penalty: imprisonment for 12 months.

- 16 (2) A person has a reasonable excuse for the purposes of  
17 subsection (1) if the person establishes that, at the time when the  
18 offence is alleged to have occurred —

- 19 (a) no steps had been taken under section 13(1)(a) to notify  
20 the public that the area that is the subject of the  
21 prosecution had been designated as a restricted area  
22 under section 12; and  
23 (b) the person did not know that the area was a restricted  
24 area.

- 25 (3) Subsection (2) does not limit any other circumstances or state of  
26 affairs that may constitute a reasonable excuse for the purposes  
27 of subsection (1).

1 **62. Interference with CHOGM event**

2 A person must not, in a CHOGM security area —

3 (a) disrupt, interfere with, delay or obstruct the conduct of a  
4 CHOGM event; or

5 (b) interfere with the reasonable enjoyment, by another  
6 person, of a CHOGM event.

7 Penalty: imprisonment for 12 months.

8 **63. Prohibited items**

9 A person must not, without reasonable excuse, take a prohibited  
10 item into, or possess a prohibited item in, a CHOGM security  
11 area.

12 Penalty: a fine of \$6 000.

13 **64. Failure to disclose personal details or provide proof of**  
14 **personal details**

15 (1) A person must not, without reasonable excuse, fail to comply  
16 with a requirement made of the person under section 40(2)(c)  
17 for the person to disclose his or her personal details or provide  
18 proof of his or her personal details.

19 Penalty: imprisonment for 12 months.

20 (2) A person must not, without reasonable excuse, in response to a  
21 requirement made of the person under section 40(2)(c) —

22 (a) give any false personal details; or

23 (b) produce any false evidence.

24 Penalty: imprisonment for 12 months.

25 **65. Re-entering CHOGM security area after being removed**

26 A person who has been removed from a CHOGM security area  
27 under section 40(2) by a police officer or an authorised person  
28 must not re-enter or attempt to re-enter that CHOGM security  
29 area or any other CHOGM security area during the remainder of

1            the CHOGM period without the written authorisation of the  
2            Commissioner.

3            Penalty: imprisonment for 12 months.

4            **Division 2 — Offence relating to closed roads**

5            **66.      Unauthorised use of closed road**

6            (1) In this section —

7            *use* a road has the meaning given in section 32(1).

8            (2) A person must not use a road while it is closed under Part 3  
9            Division 5, unless the person has a reasonable excuse.

10            Penalty: a fine of \$1 000.

11            **Division 3 — Offence relating to identity cards**

12            **67.      Failure to return identity card**

13            A person who ceases to be an authorised person must return the  
14            person's identity card to the Commissioner as soon as  
15            practicable, but within 21 days, after the person ceases to be an  
16            authorised person, unless the person has a reasonable excuse.

17            Penalty: a fine of \$2 000.

18            **Division 4 — Offence relating to airspace**

19            **68.      Offence relating to unauthorised entry into restricted  
20            airspace**

21            (1) In this section —

22            *aircraft* —

23            (a) means any machine or craft that can derive support in  
24            the atmosphere from the reactions of the air, other than  
25            the reactions of the air against the earth's surface; and

26            (b) includes an airship, a blimp and a hot-air balloon;



- 1           **Airservices Australia** means the body established by the *Air*  
2           *Services Act 1995* (Commonwealth) section 7(1);
- 3           **CASA** means the Civil Aviation Safety Authority established by  
4           the *Civil Aviation Act 1988* (Commonwealth);
- 5           **Commonwealth Air Navigation Regulations** means the *Air*  
6           *Navigation Regulations 1947* (Commonwealth);
- 7           **restricted airspace** means airspace that CASA has declared  
8           under the *Airspace Act 2007* (Commonwealth) to be restricted  
9           airspace in relation to CHOGM (Perth);
- 10          **State air navigation** means air navigation within Western  
11          Australia to and in relation to which the Commonwealth Air  
12          Navigation Regulations are applied as if they were State law by  
13          the *Air Navigation Act 1937* section 4.
- 14          (2) A person must not, during the CHOGM period and in the course  
15          of State air navigation, cause an aircraft to enter, or operate an  
16          aircraft within, restricted airspace without an air traffic  
17          clearance given by or on behalf of Airservices Australia under  
18          the *Airspace Act 2007* (Commonwealth).  
19          Penalty: a fine of \$250 000.
- 20          (3) An offence against subsection 0 is an indictable offence.
- 21          (4) The provisions of this section prevail to the extent of any  
22          inconsistency between this section and the provisions of the  
23          Commonwealth Air Navigation Regulations (as applied to and  
24          in relation to State air navigation by the *Air Navigation*  
25          *Act 1937* section 4).
- 26          (5) This section does not apply to the operation of —
- 27               (a) a military aircraft, or an aircraft of the Western  
28               Australian Police Force, when being operated for  
29               military, security or emergency purposes; or
- 30               (b) an aircraft when being operated exclusively for  
31               emergency purposes relating to human life or safety, or  
32               the protection of property.

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**Part 7 — Miscellaneous**

**Division 1 — Matters of justification or excuse**

**69. Special justification**

- (1) For the purposes of this Act (other than Part 8), a person has a special justification to be in an area, or to possess or be in control of a thing, only in the circumstances provided for by this section.
  
- (2) A person has a special justification to be in an area if —
  - (a) the person is a police officer who is on duty in the area; or
  - (b) the person is an authorised person who is performing the functions of an authorised person in the area; or
  - (c) the person is required, authorised or permitted to be in the area by the Commissioner or a police officer or an authorised person; or
  - (d) the person is required to be in (or pass through) the area for the purposes of the person’s employment, occupation, profession, calling, trade or business or for any other work-related purpose; or
  - (e) the person resides (whether on a temporary or permanent basis) in premises that are located in the area; or
  - (f) the person is in the area in other circumstances prescribed by the regulations.
  
- (3) A person has a special justification to be in possession or have control of a thing in an area if —
  - (a) the person is a police officer who is on duty in the area; or
  - (b) the person is an authorised person who is performing the functions of an authorised person in the area; or

- 1 (c) the person is required, authorised or permitted to be in  
2 possession or have control of the thing in the area by the  
3 Commissioner or a police officer or an authorised  
4 person; or
- 5 (d) the person is required to be in possession or have control  
6 of the thing in the area for the purposes of the person's  
7 employment, occupation, profession, calling, trade or  
8 business or for any other work-related purpose; or
- 9 (e) the person has possession or control of the thing in  
10 residential premises of the person that are located in the  
11 area; or
- 12 (f) the person is in possession or has control of the thing in  
13 the area in other circumstances prescribed by the  
14 regulations.

15 **70. Onus of proof of lawful excuse etc.**

- 16 (1) The onus of proof of lawful excuse or reasonable excuse or  
17 special justification (whether in proceedings for an offence  
18 against a provision of Part 6 or in relation to the exercise of  
19 powers conferred by this Act (other than Part 8)) lies on the  
20 person accused of the offence or who claims to have the lawful  
21 excuse, reasonable excuse or special justification (as the case  
22 may be).
- 23 (2) Nothing in this section limits the *Criminal Procedure Act 2004*  
24 section 78.

25 **Division 2 — Evidential matters**

26 **71. Proof of unpublished orders and of appointments**

- 27 (1) In proceedings for an offence against this Act or any other Act,  
28 the following averments in the indictment or prosecution notice  
29 are sufficient evidence of the facts averred unless the contrary is  
30 shown —
- 31 (a) that an order was made under section 8 declaring a  
32 stated area to be an additional security area, the date and

- 1 time when the order was signed, the period specified in  
2 the order for which the area was to be an additional  
3 security area, the time or times (if any) at which the area  
4 was to be an additional security area, and any matters  
5 specified or stated under section 11;
- 6 (b) that an order was made under section 12 designating a  
7 stated area within a CHOGM security area to be a  
8 restricted area, the date and time when the order was  
9 signed, and the period (if any) specified in the order for  
10 which the area was to be a restricted area;
- 11 (c) that a stated person was, at a stated time or during a  
12 stated period —
- 13 (i) a recognised law enforcement officer; or  
14 (ii) an authorised person.
- 15 (2) Subsection (1)(a) does not apply if the order made under  
16 section 8 is published in the *Gazette*.
- 17 (3) Subsection (1)(b) does not apply if the order made under  
18 section 12 is published in the *Gazette*.

19 **Division 3 — Exercise of powers**

20 **72. Use of force by police officers and authorised persons**

21 It is lawful for a police officer or an authorised person  
22 exercising a special power in relation to a person or thing, and  
23 anyone assisting the police officer or authorised person, to use  
24 whatever force is reasonably necessary to exercise the power.

25 **73. Provision relating to powers**

26 Any special power that is conferred by reference to a person,  
27 vehicle or vessel being in an area is also exercisable in relation  
28 to any person who, or vehicle or vessel that, has recently left the  
29 area.

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**Division 4 — Relationship with other laws**

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**74. Relationship with other laws**

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(1) Nothing in any other written law or the common law limits any special powers, or prevents a police officer or an authorised person from exercising any special powers, that the police officer or authorised person has under this Act.

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(2) Nothing in this Act limits any powers, or prevents a police officer from exercising any powers, that the police officer has under any other written law or the common law.

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**Division 5 — Immunities**

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**75. No liability in nuisance**

12

(1) The following do not constitute a public or private nuisance —

13

(a) anything done or omitted to be done by any person in the performance or purported performance of a function under this Act;

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(b) anything done or omitted to be done by any person in assisting a person in the performance or purported performance of a function under this Act.

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(2) This section does not limit section 76.

20

**76. Protection from liability for wrongdoing**

21

(1) An action in tort does not lie against a person for anything that the person has done, in good faith —

22

23

(a) in the performance or purported performance of a function under this Act; or

24

25

(b) in assisting a person in the performance or purported performance of a function under this Act.

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27

(2) The Crown is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).

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- 1 (3) The protection given by this section applies even though the  
2 thing done as described in subsection (1) may have been  
3 capable of being done whether or not this Act had been enacted.
- 4 (4) In this section, a reference to the doing of anything includes a  
5 reference to an omission to do anything.
- 6 (5) This section overrides the *Police Act 1892* section 137.

7 **Division 6 — Other provisions**

8 **77. Power of delegation**

- 9 (1) The Commissioner may delegate any power or duty of the  
10 Commissioner under this Act (other than Part 8) to a police  
11 officer who is, or is acting as, a Deputy Commissioner or an  
12 Assistant Commissioner.
- 13 (2) Without limiting subsection (1), the Commissioner may  
14 delegate any power or duty of the Commissioner under  
15 section 31 to a police officer who is, or is acting as, a  
16 Superintendent or an officer of a rank more senior than a  
17 Superintendent.
- 18 (3) The delegation must be in writing signed by the Commissioner.
- 19 (4) A police officer to whom a power or duty is delegated cannot  
20 delegate that power or duty.
- 21 (5) A police officer exercising or performing a power or duty that  
22 has been delegated to the police officer under this section is to  
23 be taken to do so in accordance with the terms of the delegation  
24 unless the contrary is shown.
- 25 (6) Nothing in this section limits the ability of the Commissioner to  
26 perform a function through an officer or agent.

1 **78. Corruption and Crime Commission may provide assistance**

2 (1) In this section —

3 *CCC Commissioner* means the Commissioner as defined in the  
4 *Corruption and Crime Commission Act 2003* section 3(1);

5 *Commission* means the Corruption and Crime Commission  
6 established under the *Corruption and Crime Commission*  
7 *Act 2003*;

8 *officer of the Commission* has the meaning given in the  
9 *Corruption and Crime Commission Act 2003* section 3(1).

10 (2) For the purposes of this Act, the Commissioner may, by  
11 arrangement with the CCC Commissioner —

12 (a) make use, either full-time or part-time, of the services of  
13 any officer of the Commission; and

14 (b) make use of any facilities or resources of the  
15 Commission.

16 (3) An arrangement under subsection (2) is to be made on terms  
17 agreed by the Commissioner and the CCC Commissioner.

18 (4) While performing functions under an arrangement under  
19 subsection (2), an officer of the Commission who is an  
20 authorised officer (as defined in the *Corruption and Crime*  
21 *Commission Act 2003* section 184(1)) —

22 (a) has and may perform the functions referred to in  
23 subsections (3) to (3c) of that section; and

24 (b) has the benefit of subsection (5) of that section.

25 **79. Regulations**

26 The Governor may make regulations prescribing all matters that  
27 are required or permitted by this Act to be prescribed, or are  
28 necessary or convenient to be prescribed for giving effect to the  
29 purposes of this Act.

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**Division 7 — Review of Act**

**80.       Review of Act**

- (1) The Commissioner must carry out and complete a review of the operation and effectiveness of this Act not later than 3 months after the CHOGM period ends.
- (2) Within one month after completing the review, the Commissioner must prepare a report based on the review and give the report to the Minister.
- (3) As soon as practicable after receiving the report from the Commissioner, the Minister must cause the report to be laid before each House of Parliament.



1                   **Part 8 — Examinations before Corruption and**  
2   **Crime Commission**

3   **Division 1 — Preliminary**

4   **81.       Part to be read with *Corruption and Crime Commission***  
5                   ***Act 2003***

- 6           (1) This Part is to be read in conjunction with, and as  
7                supplementary to, the *Corruption and Crime Commission*  
8                *Act 2003* as if the provisions of this Part were incorporated with,  
9                and formed part of, that Act.
- 10          (2) Where the provisions of this Part are in conflict or inconsistent  
11               with the provisions of the *Corruption and Crime Commission*  
12               *Act 2003*, the provisions of this Part prevail to the extent to  
13               which they are in conflict or inconsistent.
- 14          (3) A term has the same meaning in this Part as it has in the  
15               *Corruption and Crime Commission Act 2003* unless the contrary  
16               intention appears in this Part.

17   **82.       Terms used**

18           In this Part —

19           ***CCC Act*** means the *Corruption and Crime Commission*  
20           *Act 2003*;

21           ***CHOGM event*** has the meaning given in section 3;

22           ***CHOGM summons*** means a summons issued under  
23           section 85(1);

24           ***relevant offence*** means an offence that is punishable by  
25           imprisonment for 3 years or more, where the act or omission  
26           constituting the offence, or the result of that act or omission, is  
27           intended or likely —

- 28               (a) to kill or cause serious physical harm to people  
29               attending a CHOGM event; or

- 1 (b) to endanger the lives of people attending a CHOGM  
2 event; or  
3 (c) to create a serious risk to the health or safety of people  
4 attending a CHOGM event; or  
5 (d) to cause damage to a venue or facility for a CHOGM  
6 event; or  
7 (e) to disrupt a CHOGM event, whether directly or  
8 indirectly (for example by interfering with, disrupting or  
9 destroying a telecommunications system, a system used  
10 for the delivery of essential government services, a  
11 system used for, or by, an essential public utility, or a  
12 system used for, or by, a transport system).

13 **83. Purpose of this Part**

- 14 (1) The purpose of this Part is to facilitate the investigation of  
15 serious offences, where the act or omission constituting the  
16 offence, or the result of that act or omission, is intended or  
17 likely —  
18 (a) to harm people attending a CHOGM event; or  
19 (b) to damage a venue or facility for a CHOGM event; or  
20 (c) to disrupt a CHOGM event.  
21 (2) The investigation of an offence includes the investigation of a  
22 suspicion that the offence has been, is being, or will be,  
23 committed.

24 **Division 2 — Examinations before Corruption and**  
25 **Crime Commission**

26 **84. Commissioner of Police may ask Commission to hold**  
27 **examination**

- 28 (1) The Commissioner of Police may request the Commission to  
29 conduct an examination under this Part.

- 1           (2) On considering the request of the Commissioner of Police, the  
2 Commission may decide to conduct an examination under this  
3 Part if the Commission finds that it is satisfied that —
- 4           (a) there are reasonable grounds for suspecting that a  
5 relevant offence has been, is being, or will be,  
6 committed; and
- 7           (b) there are reasonable grounds for suspecting that there  
8 might be evidence or other information relevant to the  
9 investigation of the offence that can be obtained by  
10 conducting an examination under this Part; and
- 11           (c) there are reasonable grounds for believing that  
12 conducting an examination under this Part would be in  
13 the public interest, having regard to —
- 14               (i) whether or not the suspected offence could be  
15 effectively investigated without conducting an  
16 examination; and
- 17               (ii) the extent to which the evidence or other  
18 information that it is suspected might be obtained  
19 would assist in the investigation, and the  
20 likelihood of obtaining it; and
- 21               (iii) the circumstances in which the evidence or  
22 information that it is suspected might be obtained  
23 is suspected to have come into the possession of  
24 any person from whom it might be obtained.
- 25           (3) If the Commission finds that it is satisfied that the grounds  
26 described in subsection (1) exist, the finding is to be reduced to  
27 writing and a copy of it is to be given to the Commissioner of  
28 Police.

29 **85. Commission, on application of police, may summons witness**

- 30           (1) The Commission may, on the application of the Commissioner  
31 of Police, issue a signed summons under the CCC Act  
32 section 96 and cause it to be served under that section on the  
33 person to whom it is addressed.

1 (2) The CCC Act sections 97 to 99 apply to and in relation to a  
2 CHOGM summons and any person who is served with a  
3 CHOGM summons.

4 **86. Examination of witnesses by Commissioner of Police**

5 (1) In participating in an examination to which a person is  
6 summoned under a CHOGM summons, the Commissioner of  
7 Police is to be represented by a legal practitioner instructed for  
8 that purpose, who may be assisted by others who are not legal  
9 practitioners but who are under the direct supervision of a legal  
10 practitioner.

11 (2) A person representing the Commissioner of Police may, to the  
12 extent that the Commission thinks proper, examine any witness  
13 summoned under a CHOGM summons on any matter that the  
14 Commission considers relevant to the investigation.

15 (3) This section does not limit the operation of the CCC Act  
16 section 143.

17 **87. Examination of witness about offence with which witness is**  
18 **charged**

19 (1) A person summoned on a CHOGM summons cannot be  
20 examined about matters that may be relevant to an offence with  
21 which the person stands charged, but this section does not  
22 prevent any other person from being examined about those  
23 matters.

24 (2) For the purposes of this section, a person stands charged with an  
25 offence when whichever of the following occurs first —

26 (a) the person is informed by the person investigating the  
27 offence that he or she will be charged with the offence,  
28 whether or not at that time a prosecution notice in  
29 respect of the offence has been made or sworn;

30 (b) the persons investigating the offence ought to have  
31 formed the view that the person should be charged with

- 1                   the offence, whether or not at that time a prosecution  
2                   notice in respect of the offence has been made or sworn;  
3           (c) a prosecution notice in respect of the offence is made or  
4                   sworn.

5   **88.       Application of provisions of CCC Act**

- 6       (1) The CCC Act Part 6 Division 5, Parts 7 to 11 and section 185  
7       apply with all necessary modifications in relation to —  
8           (a) the performance of the Commission’s functions under  
9               this Part; and  
10          (b) examinations conducted by the Commission under this  
11             Part as if they were organised crime examinations; and  
12          (c) a CHOGM summons as if it were a summons issued  
13             pursuant to an application under the CCC Act  
14             section 48.  
15       (2) Nothing in this section limits section 81(1).

16   **Division 3 — Miscellaneous**

17   **89.       Delegation by Commissioner of Police**

- 18       (1) The Commissioner of Police may delegate any power or duty of  
19       the Commissioner of Police under another provision of this Part  
20       to a police officer who is, or is acting as, a Deputy  
21       Commissioner or an Assistant Commissioner.  
22       (2) The delegation must be in writing signed by the Commissioner  
23       of Police.  
24       (3) A police officer to whom a power or duty is delegated cannot  
25       delegate that power or duty.  
26       (4) A police officer exercising or performing a power or duty that  
27       has been delegated to the police officer under this section is to  
28       be taken to do so in accordance with the terms of the delegation  
29       unless the contrary is shown.

1 (5) Nothing in this section limits the ability of the Commissioner of  
2 Police to perform a function through an officer or agent.

3 **90. Judicial review excluded**

- 4 (1) Except with the consent of the Parliamentary Inspector, a  
5 prerogative writ cannot be issued and an injunction or a  
6 declaratory judgment cannot be given in respect of the  
7 performance of a function for the purposes of this Part and  
8 proceedings cannot be brought seeking a writ, injunction or  
9 judgment of that kind.
- 10 (2) Subsection 0 does not apply after the completion of the  
11 investigation that the performance of the function was seeking  
12 to facilitate.

1                   **Part 9 — Corruption and Crime Commission**  
2   **Act 2003 amended**

3   **91.       Act amended**

4                   This Part amends the *Corruption and Crime Commission*  
5                   *Act 2003*.

6   **92.       Section 91 amended**

7                   After section 91(5) insert:

8

9                   (6)   The Commission must include in the report required  
10                   under this section the number of findings made under  
11                   the *Commonwealth Heads of Government Meeting*  
12                   (*Special Powers*) *Act 2011* section 84(1) in the year to  
13                   which the report relates.

14                   (7)   This subsection and subsection (6) expire at the end of  
15                   31 December 2012.  
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**Part 10 — Expiry of Act**

**93.      Expiry of Act**

- (1) Parts 2 to 6, 7 (other than Divisions 2 and 7) and 8 expire at the end of 5 November 2011.
- (2) The rest of this Act expires on a day fixed by proclamation.
- (3) A proclamation cannot be made under subsection 0 unless the Commissioner has given the Minister a certificate signed by the Commissioner stating that the operation of this Act is no longer necessary.





## Defined Terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
additional security area .....	3
aircraft.....	68(1)
Airservices Australia.....	68(1)
authorised person .....	3
basic search.....	3
CASA.....	68(1)
CCC Act.....	82
CCC Commissioner .....	78(1)
CHOGM .....	3
CHOGM (Perth) .....	3
CHOGM event.....	3, 82
CHOGM period .....	3
CHOGM security area .....	3
CHOGM summons .....	82
Commission .....	78(1)
Commissioner .....	3
Commonwealth Air Navigation Regulations .....	68(1)
core security area .....	3
designated person.....	32(3)
designated vehicle.....	32(3)
excludable person .....	3
excludable persons.....	40(1)
excluded persons list.....	3, 39(1)
fail to comply .....	3
frisk search.....	3
legal proceedings .....	15(2)
officer of the Commission .....	78(1)
personal details .....	3
police vehicle .....	3
prohibited item.....	3
recognised law enforcement officer.....	3
relevant offence.....	82
relevant road .....	31(1)
restricted airspace .....	68(1)
restricted area.....	3
road .....	3
special justification .....	3
special power .....	3
State air navigation .....	68(1)

**Defined Terms**

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thing relevant to an offence.....	28(1)
use .....	32(1), 66(1)
vehicle.....	3
vessel.....	3