

Legislative Council—No 66

As received from the House of Assembly and read a first time, 11 November 2010

South Australia

**Summary Offences (Weapons) Amendment
Bill 2010**

A BILL FOR

An Act to amend the *Summary Offences Act 1953*; and to make related amendments to the *Protective Security Act 2007*, the *Serious and Organised Crime (Control) Act 2008* and the *Sheriff's Act 1978*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Summary Offences Act 1953*

- 4 Repeal of sections 15 and 15A
- 5 Insertion of Part 3A

Part 3A—Weapons etc

- 21A Interpretation
 - 21B Body armour
 - 21C Offensive weapons and dangerous articles etc
 - 21D Unlawful selling or marketing of knives
 - 21E Knives in schools and public places
 - 21F Prohibited weapons
 - 21G Weapons prohibition order issued by Commissioner
 - 21H Effect of weapons prohibition order
 - 21I Right of appeal to District Court
 - 21J Power to search for prohibited weapons
 - 21K Forfeiture
 - 21L General amnesty
 - 21M Regulations
- 6 Redesignation of section 21A—Tattooing of minors
 - 7 Insertion of sections 72A, 72B and 72C
 - 72A Power to conduct metal detector searches etc
 - 72B Special powers to prevent serious violence
 - 72C General provisions relating to exercise of powers under section 72A or 72B
 - 8 Amendment of section 74BAAB—Use of detection aids in searches
 - 9 Amendment of section 85—Regulations

Schedule 1—Related amendments and transitional provision

Part 1—Amendment of *Protective Security Act 2007*

- 1 Amendment of section 3—Interpretation

Part 2—Amendment of *Serious and Organised Crime (Control) Act 2008*

- 2 Amendment of section 14—Court may make control order

Part 3—Amendment of *Sheriff's Act 1978*

- 3 Amendment of section 4—Interpretation

Part 4—Transitional provision

- 4 Declarations by Minister continue
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Summary Offences (Weapons) Amendment Act 2010*.

2—Commencement

5 This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Summary Offences Act 1953*

4—Repeal of sections 15 and 15A

Sections 15 and 15A—delete the sections

5—Insertion of Part 3A

After section 21 insert:

Part 3A—Weapons etc

21A—Interpretation

(1) In this Part—

body armour means a protective jacket, vest or other article of apparel designed to resist the penetration of a projectile discharged from a firearm;

20 *criminal intelligence* means information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety;

25 *dangerous article* means an article or thing declared by regulation to be a dangerous article for the purposes of this Part;

District Court means the Administrative and Disciplinary Division of the District Court;

30 *implement of housebreaking* includes a picklock key, crowbar, jack, bit or other implement of housebreaking;

knife includes a blade (for example a knife blade or razor blade);

licensed premises means premises licensed under the *Liquor Licensing Act 1997*;

night means the interval between 9 pm on one day and 6 am on the next day;

offence of violence means an offence where the offender—

- (a) uses a weapon, or threatens to use a weapon, against another; or
- (b) inflicts serious harm on another, or threatens to inflict serious harm on another,

for the purpose of committing the offence, or escaping from the scene of the offence;

offensive weapon includes a rifle, gun, pistol, knife, sword, club, bludgeon, truncheon or other offensive or lethal weapon or instrument but does not include a prohibited weapon;

prohibited weapon means an article or thing declared by regulation to be a prohibited weapon for the purposes of this Part;

school means a primary or secondary school;

suitable for combat, in relation to a knife, means suitable for use as a weapon for inflicting injury on a person or causing a person to fear injury;

violent behaviour means an unlawful act inflicting injury on a person or causing a person to fear injury.

- (2) For the purposes of this Part, a person will be taken to be **carrying** a weapon or article if he or she has the weapon or article on or about his or her person or if it is under his or her immediate control.

21B—Body armour

- (1) A person who, without the approval in writing of the Commissioner—
 - (a) manufactures, sells, distributes, supplies or otherwise deals in, body armour; or
 - (b) uses or has possession of body armour,

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (2) The Commissioner may, subject to such conditions and limitations as the Commissioner thinks fit, give an approval to a person or a class of persons for the purposes of subsection (1) and may revoke an approval or revoke or vary the conditions or limitations under which an approval operates.
- (3) The giving or a variation or revocation of an approval that applies to a class of persons must be notified in the Gazette.

21C—Offensive weapons and dangerous articles etc

- (1) A person who, without lawful excuse—
- (a) carries an offensive weapon or an article of disguise; or
 - (b) has possession of an implement of housebreaking,
- is guilty of an offence.

Maximum penalty: \$2 500 or imprisonment for 6 months.

- (2) A person who, without lawful excuse—
- (a) manufactures, sells, distributes, supplies, or otherwise deals in, dangerous articles; or
 - (b) uses or has possession of a dangerous article,
- is guilty of an offence.

Maximum penalty: \$7 500 or imprisonment for 18 months.

- (3) A person who, without lawful excuse, carries an offensive weapon or dangerous article at night in or in the vicinity of licensed premises is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (4) It is a defence to prosecution for an offence against subsection (3) to prove that—
- (a) if the charge relates to the defendant's being in licensed premises—the defendant did not know and had no reason to believe he or she was in premises where liquor was sold or supplied; or
 - (b) if the charge relates to the defendant's being in the vicinity of licensed premises—the defendant did not know he or she was in the vicinity of premises where liquor was sold or supplied.

- (5) If on the trial of a person for an offence against subsection (3) the court is not satisfied that the person is guilty of the offence charged, but is satisfied that the person is guilty of an offence against subsection (1) or (2), the court may find the person guilty of the offence against subsection (1) or (2).

- (6) A person (being a person who is otherwise entitled to do so) must not use or have possession of a dangerous article unless he or she does so in a safe and secure manner.

Maximum penalty: \$1 250 or imprisonment for 3 months.

21D—Unlawful selling or marketing of knives

- (1) A person who sells a knife to a minor who is under the age of 16 years is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 2 years.

- (2) It is a defence to prosecution for an offence against subsection (1) to prove that—
- (a) the seller requested the minor to produce evidence of age of a kind prescribed by regulation; and
 - (b) the minor made a false statement or produced false evidence in response to that request; and
 - (c) in consequence, the seller reasonably assumed that the minor was of or above the age of 16 years.
- (3) A person who makes a false statement or produces false evidence in response to a request by a seller made in accordance with subsection (2)(a) is guilty of an offence.
Maximum penalty: \$1 250.
- (4) A person who markets a knife in a way that—
- (a) indicates, or suggests, that the knife is suitable for combat; or
 - (b) is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon,
- is guilty of an offence.
Maximum penalty: \$20 000 or imprisonment for 2 years.
- (5) For the purposes of this section, an indication or suggestion that a knife is suitable for combat may (without limitation) be given or made by a name or description—
- (a) applied to the knife; or
 - (b) on the knife or on any packaging in which it is contained; or
 - (c) included in any advertisement which, expressly or by implication, relates to the knife.
- (6) For the purposes of this section, a person *markets* a knife if the person—
- (a) sells or hires the knife; or
 - (b) offers, or exposes, the knife for sale or hire; or
 - (c) has possession of the knife for the purpose of sale or hire.

21E—Knives in schools and public places

- (1) A person who, without lawful excuse, has possession of a knife in a school or public place is guilty of an offence.
Maximum penalty:
- (a) for a first offence—\$2 500 or imprisonment for 6 months;
 - (b) for a subsequent offence—\$5 000 or imprisonment for 12 months.

(2) A person who, without lawful excuse—

- (a) uses a knife; or
- (b) carries a knife that is visible,

in the presence of any person in a school or public place in a manner that would be likely to cause a person of reasonable firmness present at the scene to fear for his or her personal safety, is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

(3) For the purposes of an offence against subsection (2), no person of reasonable firmness need actually be, or be likely to be, present at the scene.

21F—Prohibited weapons

(1) A person who—

- (a) manufactures, sells, distributes, supplies or otherwise deals in, prohibited weapons; or
- (b) uses or has possession of a prohibited weapon,

is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 2 years.

(2) It is a defence to prosecution for an offence against subsection (1) to prove that the defendant was, in accordance with—

- (a) a regulation made under subsection (3); or
- (b) a declaration made by the Commissioner under subsection (4),

an exempt person in the circumstances of the alleged offence.

(3) The regulations may prescribe circumstances in which a person will be an exempt person for the purposes of an offence against this section.

(4) The Commissioner—

- (a) may declare a person to be exempt from subsection (1) in the circumstances specified in the declaration; and
- (b) may, on the Commissioner's own initiative, vary or revoke such a declaration (provided that such variation or revocation is of no effect unless the person has been given notice of the variation or revocation).

(5) The declaration by the Commissioner under subsection (4) may be conditional or unconditional.

(6) An application to the Commissioner for a declaration must be—

- (a) in a form approved by the Commissioner; and
- (b) accompanied by the fee prescribed by regulation.

- 5
- (7) A person aggrieved by a decision of the Commissioner to vary or revoke a declaration may appeal against the variation or revocation to the District Court.
- (8) If the Commissioner has not given the person reasons in writing for making the decision appealed against, the Commissioner must do so on request made within 28 days after the person received notice of the decision.
- 10
- (9) If a decision was made because of information that is classified by the Commissioner as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.
- (10) An appeal under this section must be made—
- (a) within 28 days after the person received notice of the decision appealed against; or
- 15
- (b) if a request for reasons in writing is made under subsection (8)—within 28 days after the person received the reasons in writing.
- (11) On an appeal under this section, the Court—
- (a) must, on the application of the Commissioner, take steps to maintain the confidentiality of information classified by the Commissioner as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and
- 20
- (b) may take evidence consisting of, or relating to, information that is so classified by the Commissioner by way of affidavit of a police officer of or above the rank of Superintendent.
- 25
- (12) A person (being a person who is otherwise entitled to do so) must not use or have possession of a prohibited weapon unless he or she does so in a safe and secure manner.
- 30
- Maximum penalty: \$1 250 or imprisonment for 3 months.

21G—Weapons prohibition order issued by Commissioner

- (1) The Commissioner may issue a weapons prohibition order against a person if satisfied that—
- 35
- (a) the person has (whether before or after the commencement of this section)—
- (i) been found guilty of an offence of violence; or
- (ii) been declared liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935* by a court dealing with a charge of an offence of
- 40
- violence; and
- (b) possession of a prohibited weapon by the person would be likely to result in undue danger to life or property; and

- (c) it is in the public interest to prohibit the person from possessing and using a prohibited weapon.
- (2) A weapons prohibition order must be served on the person personally and is not binding on the person until it has been so served.
- 5 (3) If the Commissioner proposes to issue a weapons prohibition order against a person, a police officer may—
- (a) require the person to remain at a particular place while the order is prepared and issued so that the order may be served on the person; and
- 10 (b) if the person refuses or fails to comply with the requirement or the officer has reasonable grounds to believe that the requirement will not be complied with, arrest and detain the person in custody (without warrant) for—
- 15 (i) so long as may be necessary for the order to be served on the person; or
- (ii) 2 hours,
- whichever is the lesser.
- (4) A weapons prohibition order served on a person must be accompanied by a notice setting out the Commissioner's reasons for
- 20 issuing the order.
- (5) If the decision to issue the order was made because of information that is classified by the Commissioner as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.
- 25 (6) Subject to subsection (7), a weapons prohibition order issued against a person remains in force for a period of 5 years from the date on which it was served on the person or for such lesser period as may be specified in the order.
- 30 (7) The Commissioner may, on his or her own initiative or on application, by notice in writing served personally or by post on a person, revoke a weapons prohibition order issued against the person.
- 35 (8) For the avoidance of doubt, the fact that a weapons prohibition order issued against a person has ceased to be in force in accordance with subsection (6), or has been revoked in accordance with subsection (7), does not prevent the Commissioner from issuing a subsequent weapons prohibition order against the person in accordance with this section.

21H—Effect of weapons prohibition order

- 40 (1) A person to whom a weapons prohibition order applies is disqualified from obtaining an exemption under section 21F.

- (2) While a weapons prohibition order applies to a person—
- (a) any exemption under a regulation made for the purposes of section 21F does not apply in relation to the person unless the regulation expressly provides that it will apply to such a person; and
 - (b) any exemption held by the person under section 21F is suspended.

- (3) A person to whom a weapons prohibition order applies must not manufacture, sell, distribute, supply, deal with, use or possess a prohibited weapon.

Maximum penalty: \$35 000 or imprisonment for 4 years.

- (4) A person to whom a weapons prohibition order applies—

- (a) must not be present at—

- (i) a place at which a person carries on the business of manufacturing, repairing, modifying or testing prohibited weapons or buying, selling or hiring out, prohibited weapons; or
- (ii) any other place of a kind prescribed by regulation; and

- (b) must not be in the company of a person who has a prohibited weapon on or about his or her person or under his or her immediate physical control.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (5) It is a defence to prosecution for an offence against subsection (4)(b) to prove that the person did not know, and could not reasonably be expected to have known, that the other person had a prohibited weapon on or about his or her person or under his or her immediate physical control.

- (6) A person to whom a weapons prohibition order applies must not reside at premises on which there is a prohibited weapon.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (7) It is a defence to prosecution for an offence against subsection (6) to prove that the person did not know, and could not reasonably be expected to have known, that the weapon was on the premises.

- (8) A person to whom a weapons prohibition order applies must inform each other person of or over the age of 18 years who resides or proposes to reside at the same premises as the person of the fact that a weapons prohibition order applies to the person and ask each such person whether or not he or she has or proposes to have a prohibited weapon on the premises.

Maximum penalty: \$10 000 or imprisonment for 2 years.

(9) A person must not supply a prohibited weapon to a person to whom a weapons prohibition order applies or permit such a person to gain possession of a prohibited weapon.

Maximum penalty: \$35 000 or imprisonment for 4 years.

5 (10) A person who has a prohibited weapon on or about his or her person or under his or her immediate physical control must not be in the company of a person to whom a weapons prohibition order applies.

Maximum penalty: \$10 000 or imprisonment for 2 years.

10 (11) If a person to whom a weapons prohibition order applies resides at premises, a person who brings a prohibited weapon onto the premises or has possession of a prohibited weapon on the premises is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

15 (12) It is a defence to prosecution for an offence against subsection (9), (10) or (11) to prove that the person did not know, and could not reasonably be expected to have known, that a weapons prohibition order applies to the person.

20 (13) For the purposes of this section, if a person to whom a weapons prohibition order applies is on or in premises or a vehicle, vessel or aircraft (other than any premises, vehicle, vessel or aircraft to which the public are admitted) when a prohibited weapon is found on or in the premises, vehicle, vessel or aircraft, the person will be taken to possess the weapon, unless it is proved that the person did not know, and could not reasonably be expected to have known, that the
25 weapon was on or in the premises, vehicle, vessel or aircraft.

(14) The Commissioner may exempt a person, unconditionally or subject to conditions, from a specified provision of this section and may vary or revoke an exemption by notice in writing served personally or by registered post on the holder of the exemption.

30 **21I—Right of appeal to District Court**

(1) A person aggrieved by a decision of the Commissioner to issue a weapons prohibition order may appeal against the decision to the District Court.

35 (2) If the Commissioner has not given the person reasons in writing for making the decision appealed against, the Commissioner must do so on request made within 28 days after the person received notice of the decision.

(3) If a decision was made because of information that is classified by the Commissioner as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.

40 (4) An appeal under this section must be made—

(a) within 28 days after the person received notice of the decision appealed against; or

(b) if a request for reasons in writing is made under subsection (2)—within 28 days after the person received the reasons in writing.

(5) On an appeal under this section, the Court—

(a) must, on the application of the Commissioner, take steps to maintain the confidentiality of information classified by the Commissioner as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and

(b) may take evidence consisting of, or relating to, information that is so classified by the Commissioner by way of affidavit of a police officer of or above the rank of Superintendent.

21J—Power to search for prohibited weapons

(1) A police officer may, as reasonably required for the purpose of ensuring compliance with a weapons prohibition order issued by the Commissioner—

(a) detain a person to whom this subsection applies and search the person for prohibited weapons; and

(b) stop and detain a vehicle, vessel or aircraft to which this subsection applies and search the vehicle, vessel or aircraft for prohibited weapons; and

(c) enter premises to which this subsection applies and search the premises for prohibited weapons.

(2) Subsection (1) applies—

(a) to a person who a police officer suspects on reasonable grounds is a person to whom a weapons prohibition order issued by the Commissioner applies; and

(b) to a vehicle, vessel or aircraft that a police officer suspects on reasonable grounds is in the charge of a person to whom the subsection applies; and

(c) to premises that a police officer suspects on reasonable grounds are occupied by, or under the care, control or management of, a person—

(i) who the police officer suspects on reasonable grounds of contravening a weapons prohibition order; or

(ii) who has previously contravened a weapons prohibition order.

(3) If a prohibited weapon is delivered or seized under this section, it must be forwarded immediately to the Commissioner.

21K—Forfeiture

A court that has convicted a person of an offence against this Part may order that the weapon, implement or article in relation to which the offence was committed be forfeited to the Crown.

21L—General amnesty

- 5
- (1) The Commissioner may, with the approval of the Minister, from time to time declare a general amnesty from 1 or more of the provisions of this Part.
- (2) An amnesty—
- 10
- (a) must be declared by notice in the Gazette and in a newspaper circulating generally throughout the State; and
- (b) applies in relation to the provision or provisions of this Part specified in the notice, either generally or subject to limitations specified in the notice (the *relevant provisions*);
- 15
- and
- (c) applies for the period specified in the notice; and
- (d) applies for the benefit of all members of the class or classes of persons affected by the relevant provisions; and
- (e) is subject to the terms and conditions (if any) set out in the notice.
- 20
- (3) The Commissioner may, with the approval of the Minister, vary or revoke the declaration of an amnesty under subsection (1) by notice in the Gazette and in a newspaper circulating generally throughout the State.

21M—Regulations

Regulations made for the purposes of this Part may, without limitation—

- 25
- (a) prescribe the circumstances in which a person will, or will not, be taken to have a lawful excuse in relation to an act or omission referred to in section 21C or 21E; and
- 30
- (b) provide that this Part or specified provisions of this Part do not apply to a specified class of weapon, implement or article; and
- (c) prescribe evidentiary provisions to facilitate proof of an offence against this Part.
- 35

6—Redesignation of section 21A—Tattooing of minors

Section 21A—redesignate the section as section 21N

7—Insertion of sections 72A, 72B and 72C

After section 72—insert:

72A—Power to conduct metal detector searches etc

- 5 (1) A police officer may, for the purpose of detecting the commission of an offence under Part 3A, carry out a metal detector search in relation to—
- (a) any person who is in, or is apparently attempting to enter or to leave, an area to which this section applies; and
- (b) any property in the possession of such a person.
- 10 (2) This section applies to the following areas:
- (a) licensed premises and the vicinity of licensed premises;
- (b) a public place holding an event (being a community, cultural, arts, entertainment, recreational, sporting or other similar event that is to be held over a limited period of time) declared by the Commissioner by notice in the Gazette under subsection (3).
- 15 (3) A declaration referred to in subsection (2)(b)—
- (a) must be made in accordance with guidelines (if any) prescribed by regulation; and
- 20 (b) must specify the event and the public place to which the declaration relates; and
- (c) must specify that the declaration operates during the period for which the event is held; and
- (d) may be subject to conditions specified in the notice.
- 25 (4) The Commissioner must cause notice of the declaration to be published in a newspaper circulating throughout the State before the commencement of the period during which the declaration will operate.
- 30 (5) Nothing in this section authorises a police officer to carry out a metal detector search of a person, or property of a person, in his or her place of residence or in a hotel room, lodging room or any other place in which he or she is temporarily residing.
- (6) If a metal detector search indicates the presence, or likely presence, of any metal, a police officer may proceed to conduct a search in accordance with procedures prescribed by regulation.
- 35 (7) The Commissioner must, on or before 30 September in each year (other than the year in which this section comes into operation), provide a report to the Minister containing the following information in respect of the period of 12 months that ended on the preceding 30 June:
- 40 (a) the number of declarations made under subsection (3);

- (b) the number of metal detector searches carried out under this section;
- (c) the number of occasions on which a metal detector search indicated the presence, or likely presence, of any metal;
- (d) the number of occasions on which weapons or articles of a kind referred to in Part 3A were detected in the course of such searches and the types of weapons or articles so detected;
- (e) any other information requested by the Minister.

(8) The Minister must, within 12 sitting days after receipt of a report under subsection (7), cause copies of the report to be laid before each House of Parliament.

(9) In this section—

licensed premises means—

- (a) premises in respect of which 1 of the following classes of licence is in force under the *Liquor Licensing Act 1997*:
 - (i) a hotel licence;
 - (ii) a restaurant licence that includes an extended trading authorisation;
 - (iii) an entertainment venue licence;
 - (iv) a club licence that includes an extended trading authorisation;
 - (v) a special circumstances licence that includes an extended trading authorisation;
 - (vi) a licence of a class prescribed by regulation;
- (b) the premises defined in the casino licence, within the meaning of the *Casino Act 1997*, as the premises to which the licence relates;
- (c) premises subject to a licence prescribed by regulation;

metal detector search means a search conducted—

- (a) using only a metal detector of a kind approved by the Commissioner; and
- (b) in accordance with any directions issued by the Commissioner.

72B—Special powers to prevent serious violence

- (1) A police officer may, for the purpose of locating weapons and other articles in an area to which this section applies, carry out a search in relation to—
 - (a) any person who is in, or is apparently attempting to enter or to leave the area; and

(b) any property in the possession of such a person.

(2) This section applies to an area in relation to which the exercise of powers under this section is authorised in accordance with subsection (3).

5 (3) A police officer of or above the rank of Superintendent may authorise the exercise of powers under this section in relation to an area if he or she has reasonable grounds to believe—

(a) that an incident involving serious violence may take place in the area; and

10 (b) such powers are necessary to prevent the incident.

(4) An authorisation must not be granted under subsection (3) in relation to persons participating in advocacy, protest, dissent or industrial action.

(5) An authorisation granted under subsection (3)—

15 (a) must be granted in accordance with guidelines (if any) issued by the Commissioner; and

(b) must specify the area to which the authorisation relates; and

(c) must specify the grounds for granting the authorisation; and

20 (d) must specify a period of not more than 24 hours during which the authorisation operates (the *authorisation period*); and

(e) may be subject to conditions specified by the police officer granting the authorisation.

25 (6) An authorisation granted under subsection (3) may be varied or revoked by a police officer of or above the rank of Superintendent at any time.

30 (7) An authorisation granted under subsection (3) or a variation or revocation of such an authorisation must be by instrument in writing unless the police officer granting, varying or revoking the authorisation is satisfied that circumstances of urgency exist in which case the authorisation, variation or revocation may be oral, provided that it is reduced to writing as soon as reasonably practicable.

(8) If—

35 (a) it is proposed to grant an authorisation in relation to an area; and

(b) a previous authorisation has been granted in relation to that area or a part of that area,

40 the authorisation period specified in the proposed authorisation must not commence within 48 hours of the end of the authorisation period specified in the previous authorisation, unless the consent of the Commissioner has been obtained in accordance with subsection (9).

(9) The Commissioner may, by instrument in writing, give consent to the granting of an authorisation of a kind specified in subsection (8) if the Commissioner is satisfied that it is in the public interest to do so.

5 (10) The Commissioner must, on or before 30 September in each year (other than the year in which this section comes into operation), provide a report to the Minister containing the following information in respect of the period of 12 months that ended on the preceding 30 June:

10 (a) the number of authorisations granted under subsection (3) and the nature of the incidents in relation to which such authorisations were granted;

(b) the number of occasions on which persons were searched in the exercise of powers under this section;

15 (c) the number of occasions on which weapons or articles of a kind referred to in Part 3A were detected in the course of such searches and the types of weapons or articles so detected;

(d) the number of occasions on which the Commissioner gave consent under subsection (9);

20 (e) any other information requested by the Minister.

(11) The Minister must, within 12 sitting days after receipt of a report under subsection (10), cause copies of the report to be laid before each House of Parliament.

25 **72C—General provisions relating to exercise of powers under section 72A or 72B**

(1) Nothing in section 72A or 72B derogates from the power of a police officer to do anything pursuant to a general search warrant.

30 (2) The Commissioner must establish procedures to be followed by police officers in the exercise of powers under section 72A or 72B, being procedures designed to prevent, as far as reasonably practicable, any undue delay, inconvenience or embarrassment to persons being subjected to the powers.

35 (3) A police officer may, in exercising powers under section 72A or 72B, be assisted by such persons as the officer considers necessary or desirable in the circumstances.

(4) A police officer conducting a search under section 72A or 72B may—

40 (a) enter and remain in any premises or place necessary for the purpose of conducting the search; and

(b) give such directions as are reasonably necessary for, or incidental to, the effective conduct of the search; and

(c) give such directions as are reasonably necessary to determine the nature of anything found as a result of the search.

5 (5) A police officer may only detain a person, by directions given under section 72A or 72B, for so long as is reasonably necessary to carry out a search in relation to the person and any property in the possession of the person.

(6) A person must not—

10 (a) hinder or obstruct a police officer, or a person accompanying a police officer, in the exercise of the powers conferred by section 72A or 72B; or

(b) refuse or fail to comply with a requirement made of the person, or a direction given to the person, pursuant to section 72A or 72B.

15 Maximum penalty: \$2 500 or imprisonment for 6 months.

(7) For the avoidance of doubt, a search may be conducted in accordance with section 72A or 72B whether or not it would be lawful to conduct a search in accordance with any other provision of this Part.

20 (8) In any proceedings, an apparently genuine document purporting to be a certificate signed by the Commissioner and certifying that—

(a) a particular area was subject to an authorisation properly granted in accordance with section 72B during a period specified in the certificate; or

25 (b) a device used during a specified period to carry out metal detector searches within a specified area, or at a specified place, was a metal detector approved by the Commissioner,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

8—Amendment of section 74BAAB—Use of detection aids in searches

30 Section 74BAAB(1)—delete subsection (1) and substitute:

(1) A police officer may, in exercising powers under this Part, use a drug detection dog, an electronic drug detection system, a metal detector or any other system or device designed to assist in the detection of objects or substances.

35 9—Amendment of section 85—Regulations

(1) Section 85(2)(a) and (b)—delete paragraphs (a) and (b)

(2) Section 85—after subsection (2) insert:

(3) The regulations may—

40 (a) be of general application or vary in their application according to prescribed factors; and

- (b) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the Commissioner.

Schedule 1—Related amendments and transitional provision

Part 1—Amendment of *Protective Security Act 2007*

1—Amendment of section 3—Interpretation

Section 3, definition of *dangerous object or substance*, (b)—delete paragraph (b) and substitute:

- (b) a dangerous article, offensive weapon or prohibited weapon, in each case within the meaning of section 21A of the *Summary Offences Act 1953*; or

- (ba) a firearm within the meaning of the *Firearms Act 1977*; or

Part 2—Amendment of *Serious and Organised Crime (Control) Act 2008*

2—Amendment of section 14—Court may make control order

Section 14(5)(b)(ii)—delete "section 15" and substitute:
section 21A

Part 3—Amendment of *Sheriff's Act 1978*

3—Amendment of section 4—Interpretation

Section 4(1), definition of *restricted item*, (b)—delete paragraph (b) and substitute:

- (b) a dangerous article, offensive weapon or prohibited weapon, in each case within the meaning of section 21A of the *Summary Offences Act 1953*;

- (ba) a firearm within the meaning of the *Firearms Act 1977*;

Part 4—Transitional provision

4—Declarations by Minister continue

A declaration by the Minister in force under section 15(2d) of the *Summary Offences Act 1953* immediately before the commencement of section 5 continues in force as if it were a declaration by the Commissioner of Police under section 21F of that Act (as in force after the commencement of section 5).