Western Australia

Commonwealth Heads of Government Meeting (Special Powers) Act 2011

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Defined Terms

Western Australia

Commonwealth Heads of Government Meeting (Special Powers) Act 2011

No. 23 of 2011

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 and associated meetings, events, functions and activities, to amend the *Corruption and Crime Commission Act 2003* and for related purposes.

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Part 1 — Preliminary

1. Short title

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

2. Commencement

This Act comes into operation as follows —

(a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;

(b) sections 3 to 5, 81 and Parts 8 to 10 — on the day after that day;

(c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Terms used

In this Act (other than Part 8) —

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

attend an event includes —

(a) be involved in the event; and

(b) in the case of an event that consists of the provision of accommodation, be accommodated in the accommodation provided;

authorised person means a person appointed under section 56(1) as an authorised person;

basic search has the meaning given in section 25(1);

CHOGM event means —

(a) any meeting, event, function or activity that forms part of CHOGM (Perth); or

(b) any function held for the benefit of people attending CHOGM (Perth); or

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(c) any entertainment event held for the benefit of people attending CHOGM (Perth); or

(d) the accommodation provided for people attending CHOGM (Perth), CHOGM officials or other officials associated with the organisation of CHOGM (Perth); or

(e) the arrival at, or departure from, any airport of people attending CHOGM (Perth), CHOGM officials or other officials associated with the organisation of CHOGM (Perth); or

(f) any other meeting, event, function or activity that is declared to be a CHOGM event by an order made under section 14;

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

CHOGM (Perth) means the Commonwealth Heads of Government Meeting (***CHOGM***) to be held in Perth during the CHOGM period and includes associated meetings, events, functions and activities held during that period;

CHOGM security area means —

(a) a core security area; or

(b) an additional security area;

Commissioner means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

core security area means an area that is declared to be a core security area by the regulations;

excludable person means a person who may be excluded from a CHOGM security area under section 43;

excluded persons list means a list compiled under section 42 by the Commissioner;

fail to comply includes refuse to comply;

frisk search has the meaning given in section 25(2);

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personal details, in relation to a person, means —

(a) the person's full name; and

(b) the person's date of birth; and

(c) the address where the person is residing; and

(d) the address where the person usually resides, if that is different from the address referred to in paragraph (c);

police vehicle means a vehicle used or operated for the purposes of activities engaged in by a police officer while performing any functions of a police officer (whether under this Act or otherwise);

prohibited item means any of the following —

(a) spray paint cans;

(b) chains;

(c) handcuffs or other devices capable of being used to lock persons to other persons or things;

(d) poles that are more than one metre in length;

(e) marbles, ball-bearings or similar spherical items;

(f) smoke devices;

(g) flares;

(h) flammable or noxious liquids or substances;

(i) offensive liquids or substances;

(j) laser pointers;

(k) devices that are capable of being used to interfere with broadcast or communication devices;

(l) any other things (or things belonging to a class of things) prescribed by the regulations;

recognised law enforcement officer means a person who holds an appointment under section 50;

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

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road —

(a) has the meaning given in the *Road Traffic Act 1974* section 5(1); and

(b) includes a private road created under the *Transfer of Land Act 1893* Part IVA or as defined in the *Land Administration Act 1997* section 3(1);

special justification has the meaning given in section 72;

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

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

vessel —

(a) means any thing used, or capable of being used, in navigation by water, of whatever size and whether or not it has any means of propulsion; and

(b) includes —

(i) a hovercraft, seaplane or other similar craft; and

(ii) a submarine or other submersible.

4. Purpose

(1) The purpose of this Act is to promote the security and safety of people attending the Commonwealth Heads of Government Meeting in Perth in 2011 and associated meetings, events, functions and activities by giving police officers, certain other persons and the Corruption and Crime Commission special powers with respect to CHOGM (Perth).

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

(a) promoting the security and safety of the venues and facilities used for CHOGM (Perth); and

(b) promoting the security and safety of the accommodation for people attending CHOGM (Perth).

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5. Act binds Crown

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

[Parts 2-6 have not come into operation [2].]

*[**72-80.** Have not come into operation [2].]*

81. Corruption and Crime Commission may provide assistance

(1) In this section —

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

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

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

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

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

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

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

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

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

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

*[**82, 83.** Have not come into operation [2].]*

Part 8 — Examinations before Corruption and Crime Commission

Division 1 — Preliminary

84. Part to be read with *Corruption and Crime Commission Act 2003*

(1) This Part is to be read in conjunction with, and as supplementary to, the *Corruption and Crime Commission Act 2003* as if the provisions of this Part were incorporated with, and formed part of, that Act.

(2) Where the provisions of this Part are in conflict or inconsistent with the provisions of the *Corruption and Crime Commission Act 2003*, the provisions of this Part prevail to the extent to which they are in conflict or inconsistent.

(3) A term has the same meaning in this Part as it has in the *Corruption and Crime Commission Act 2003* unless the contrary intention appears in this Part.

85. Terms used

In this Part —

attend an event has the meaning given in section 3;

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

CHOGM event has the meaning given in section 3;

CHOGM summons means a summons issued under section 88(1);

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

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

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(b) to endanger the lives of people attending a CHOGM event; or

(c) to create a serious risk to the health or safety of people attending a CHOGM event; or

(d) to cause damage to a venue or facility for a CHOGM event; or

(e) to disrupt a CHOGM event, whether directly or indirectly (for example by interfering with, disrupting or destroying a telecommunications system, a system used for the delivery of essential government services, a system used for, or by, an essential public utility, or a system used for, or by, a transport system).

86. Purpose of this Part

(1) The purpose of this Part is to facilitate the investigation of serious offences, where the act or omission constituting the offence, or the result of that act or omission, is intended or likely —

(a) to harm people attending a CHOGM event; or

(b) to damage a venue or facility for a CHOGM event; or

(c) to disrupt a CHOGM event.

(2) The investigation of an offence includes the investigation of a suspicion that the offence has been, is being, or will be, committed.

Division 2 — Examinations before Corruption and Crime Commission

87. Commissioner of Police may ask Commission to hold examination

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

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(2) On considering the request of the Commissioner of Police, the Commission may decide to conduct an examination under this Part if the Commission finds that it is satisfied that —

(a) there are reasonable grounds for suspecting that a relevant offence has been, is being, or will be, committed; and

(b) there are reasonable grounds for suspecting that there might be evidence or other information relevant to the investigation of the offence that can be obtained by conducting an examination under this Part; and

(c) there are reasonable grounds for believing that conducting an examination under this Part would be in the public interest, having regard to —

(i) whether or not the suspected offence could be effectively investigated without conducting an examination; and

(ii) the extent to which the evidence or other information that it is suspected might be obtained would assist in the investigation, and the likelihood of obtaining it; and

(iii) the circumstances in which the evidence or information that it is suspected might be obtained is suspected to have come into the possession of any person from whom it might be obtained.

(3) If the Commission finds that it is satisfied that the grounds described in subsection (2) exist, the finding is to be reduced to writing and a copy of it is to be given to the Commissioner of Police.

88. Commission, on application of police, may summons witness

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

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

89. Examination of witnesses by Commissioner of Police

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

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

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

90. Examination of witness about offence with which witness is charged

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

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

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

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

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the offence, whether or not at that time a prosecution notice in respect of the offence has been made or sworn;

(c) a prosecution notice in respect of the offence is made or sworn.

91. Application of provisions of CCC Act

(1) The CCC Act Part 6 Division 5, Parts 7 to 11 and section 185 apply with all necessary modifications in relation to —

(a) the performance of the Commission's functions under this Part; and

(b) examinations conducted by the Commission under this Part as if they were organised crime examinations; and

(c) a CHOGM summons as if it were a summons issued pursuant to an application under the CCC Act section 48.

(2) Nothing in this section limits section 84(1).

Division 3 — Miscellaneous

92. Delegation by Commissioner of Police

(1) The Commissioner of Police may delegate any power or duty of the Commissioner of Police under another provision of this Part to a police officer who is, or is acting as, a Deputy Commissioner or an Assistant Commissioner.

(2) The delegation must be in writing signed by the Commissioner of Police.

(3) A police officer to whom a power or duty is delegated cannot delegate that power or duty.

(4) A police officer exercising or performing a power or duty that has been delegated to the police officer under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

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

93. Judicial review excluded

(1) Except with the consent of the Parliamentary Inspector, a prerogative writ cannot be issued and an injunction or a declaratory judgment cannot be given in respect of the performance of a function for the purposes of this Part and proceedings cannot be brought seeking a writ, injunction or judgment of that kind.

(2) Subsection (1) does not apply after the completion of the investigation that the performance of the function was seeking to facilitate.

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

94. Act amended

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

95. Section 91 amended

After section 91(5) insert:

(6) The Commission must include in the report required under this section the number of findings made under the *Commonwealth Heads of Government Meeting (Special Powers) Act 2011* section 87(2) in the year to which the report relates.

(7) This subsection and subsection (6) expire at the end of 31 December 2012.

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Part 10 — Expiry of Act

96. 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 (2) unless the Commissioner has given the Minister a certificate signed by the Commissioner stating that the operation of this Act is no longer necessary.

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Notes

[1] This is a compilation of the *Commonwealth Heads of Government Meeting (Special Powers) Act 2011*. The following table contains information about that Act [1a].

Compilation table

Short title	Number and year	Assent	Commencement
Commonwealth Heads of Government Meeting (Special Powers) Act 2011	23 of 2011	11 Jul 2011	s. 1 and 2: 11 Jul 2011 (see s. 2(a)) s. 3-5, 81 and Pt. 8-10: 12 Jul 2011 (see s. 2(b))

[1a] On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
Commonwealth Heads of Government Meeting (Special Powers) Act 2011 Pt. 2-6, s. 72-80, 82 and 83 [2]	23 of 2011	11 Jul 2011	To be proclaimed (see s. 2(c))

[2] On the date as at which this compilation was prepared, the *Commonwealth Heads of Government Meeting (Special Powers) Act 2011* Pt. 2-6, s. 72 80, 82 and 83 had not come into operation. They read as follows:

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.

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(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

(ii) where in that area those special powers, or particular special powers, may be exercised by authorised persons; and

(iii) when authorised persons may exercise those special powers, or particular special powers;

and

(b) state any restrictions that apply to access to the core security area or a part of the core security area; and

(c) state any conditions that apply to entry to the core security area or a part of that area.

Division 2 — Additional security areas

8. Additional security areas

(1) The Commissioner may, with the approval of the Minister, by order, declare an area of land within the State (other than an area that is in a core security area) to be an additional security area for the period stated in the order.

(2) An order made under subsection (1) has effect when it is published in the *Gazette* unless section 10 applies, in which case it has effect when the Commissioner signs the order.

(3) The period for which an area is declared to be an additional security area must be within the CHOGM period.

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(4) The Commissioner may declare an area to be an additional security area only if the Commissioner is satisfied that declaring the area to be an additional security area will substantially assist in promoting the security or safety of a CHOGM event, people attending the event or the public or in preventing or controlling a public disorder.

(5) An order may declare that an area is an additional security area at all times or only at times specified in the order.

(6) If the order does not specify, for the period for which an area is an additional security area, the times at which the area is an additional security area during that period, the area is an additional security area at all times during that period.

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

9. Urgent order declaring additional security area

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

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

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

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

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

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

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

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

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

10. Gazetting of order can be dispensed with

Despite sections 8(2) and 9(2)(b)(ii), the Commissioner does not have to publish an order made under section 8 in the *Gazette* if the

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Commissioner is satisfied that the publication of the order would be likely to significantly compromise the security or safety of a CHOGM event, people attending the event or the public.

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

An order under section 8 declaring an area to be an additional 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

(ii) where in that area those special powers, or particular special powers, may be exercised by authorised persons; and

(iii) when authorised persons may exercise those special powers, or particular special powers;

and

(b) state any restrictions that apply to access to the additional security area or a part of the additional security area; and

(c) state any conditions that apply to entry to the additional security area or a part of that area.

Division 3 — Restricted areas

12. Restricted areas

(1) The Commissioner may, by order, designate an area within a CHOGM security area to be a restricted area for the period (if any) specified in the order.

(2) An order under this section has effect when the Commissioner signs the order.

(3) The Commissioner may designate an area to be a restricted area only if the Commissioner is satisfied that —

(a) the area is being or will be used directly for or in relation to a CHOGM event or the administration of a CHOGM event; and

(b) the exercise of special powers in relation to restricted areas is necessary to promote the security or safety of the venues or facilities for a CHOGM event or people attending the event.

(4) An area is a restricted area for the purposes of this Act only for —

(a) the period specified in the order; or

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(b) if no period is specified in the order, the CHOGM period or, if the CHOGM period has already commenced, the remainder of that period.

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

13. Public notification of restricted area

(1) The Commissioner must take reasonable steps —

(a) to notify the public that an area has been designated as a restricted area under section 12 as soon as is reasonably practicable after the order designating the area is made; and

(b) to notify whatever public agencies the Commissioner considers should be notified of an order that is made (or is proposed to be made) under section 12 as soon as is reasonably practicable for the Commissioner to give the notification.

(2) Notification by any of the following means is sufficient compliance with subsection (1)(a) —

(a) the publication of the terms of the order (or a description of the restricted area concerned) in the *Gazette*;

(b) the publication of the terms of the order (or a description of the restricted area concerned) in a newspaper circulating generally throughout the State;

(c) the erection of signs or barriers (or both) around the whole or part of the perimeter of the restricted area concerned.

(3) Subsection (2) does not limit the ways in which the Commissioner may comply with subsection (1)(a).

(4) The Commissioner does not have to take steps under this section if the Commissioner considers that to do so would significantly compromise security arrangements for a CHOGM event.

(5) A failure to comply with subsection (1) does not affect the validity of an order made under section 12.

Division 4 — CHOGM events

14. Order declaring CHOGM event

(1) The Minister may, by order, declare any meeting, event, function or activity to be a CHOGM event if the Minister is satisfied that declaring the meeting, event, function or activity to be a CHOGM event will substantially assist in —

(a) promoting the security or safety of —

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(i) people attending CHOGM (Perth); or

(ii) CHOGM officials or other officials associated with the organisation of CHOGM (Perth); or

(iii) the public;

or

(b) preventing or controlling a public disorder.

(2) An order made under subsection (1) has effect when it is published in the *Gazette* unless section 16 applies, in which case it has effect when the Minister signs the order.

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

15. Urgent order declaring CHOGM event

(1) The Minister may make an order under section 14 without publishing the order in the *Gazette* if the Minister is satisfied —

(a) that it is necessary to declare a meeting, event, function or activity to be a CHOGM event as a matter of urgency; and

(b) that the delay that would be caused by having to publish the order in the *Gazette* would significantly compromise the security or safety of the meeting, event, function or activity, people attending it or the public.

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

(a) the order has effect when the Minister signs the order; and

(b) as soon as practicable after the order is made, the Minister must ensure that the order is published in the *Gazette*, unless section 16 applies.

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

16. Gazetting of order can be dispensed with

Despite sections 14(2) and 15(2)(b), the Minister does not have to publish an order made under section 14 in the *Gazette* if the Minister is satisfied that the publication of the order would be likely to significantly compromise the security or safety of the meeting, event, function or activity to which the order relates, people attending it or the public.

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Division 5 — Further provisions relating to orders

17. Application of *Interpretation Act 1984* to orders

(1) An order made under section 8, 12 or 14 is not subsidiary legislation for the purposes of the *Interpretation Act 1984*.

(2) The *Interpretation Act 1984* sections 43 (other than subsection (6)) and 44 and Part VIII apply to an order made under section 8, 12 or 14 as if it were subsidiary legislation.

18. Orders not open to challenge

(1) An order made or purportedly made under section 8, 12 or 14 (and any decision or purported decision of the Minister or the Commissioner with respect to the order or purported order) may not be challenged, appealed against, reviewed, quashed or called into question on any grounds whatsoever before any court, tribunal, body or person in any legal proceedings, or restrained, removed or otherwise affected by proceedings for any injunctive, declaratory or other relief, remedy or order whether by way of prerogative writ or otherwise.

(2) For the purposes of subsection (1), ***legal proceedings*** includes an investigation into police or other conduct under any Act (other than the *Corruption and Crime Commission Act 2003*).

(3) This section does not limit judicial review for jurisdictional error.

(4) This section expires when the CHOGM period ends.

Part 3 — Special powers in relation to CHOGM security areas

Division 1 — Application

19. Special powers only available during CHOGM period

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

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

20. Restrictions on exercise of special powers

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

(a) who may exercise special powers in, or in relation to, a CHOGM security area or a part of a CHOGM security area; or

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(b) which special powers may be exercised in, or in relation to, a CHOGM security area or a part of a CHOGM security area; or

(c) where in a CHOGM security area or a part of a CHOGM security area special powers may be exercised; or

(d) when special powers may be exercised in, or in relation to, a CHOGM security area or a part of a CHOGM security area.

Division 2 — Stop and search powers

Subdivision 1 — Check points, cordons and roadblocks

21. 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.

Subdivision 2 — Powers in relation to people

22. Power to require disclosure of identity

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

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(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.

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

24. Power to search persons

(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 submit to a search of the person; or

(b) stop and search a person who is in a CHOGM security area.

(2) A police officer or an authorised person who requires a person to submit to a search under this section must also warn the person that failure to comply with the requirement may result in the

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

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

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

25. Basic searches and frisk searches

(1) A person who is authorised by section 24 to do a basic search of another person may do any or all of the following —

(a) scan the other person with an electronic or mechanical device, whether hand held or not, to detect any thing;

(b) remove the other person's headwear, gloves, footwear or outer clothing (such as a coat or jacket), but not his or her inner clothing or underwear;

(c) if the searcher is a police officer, frisk search the other person;

(d) search any article removed under paragraph (b).

(2) A police officer who is authorised by this section to do a frisk search of another person may quickly and methodically run his or her hands over the outside of the other person's clothing.

(3) If a police officer is authorised by this section to do a frisk search of another person, the searcher must, if practicable, be a person of the same gender as the person being searched.

(4) If a basic search is done of a person under section 24 —

(a) it must be done as quickly as is reasonably practicable; and

(b) it must not be any more intrusive than is reasonably necessary in the circumstances; and

(c) the searcher, if he or she proposes to remove any article that the person is wearing, must tell the person why it is considered necessary to do so.

26. Ancillary powers for searches

(1) A person who is authorised by section 24 to search another person may do any or all of the following for the purposes of doing the search —

(a) detain the other person for as long as is reasonably necessary to conduct the search;

(b) search any thing being carried by or under the immediate control of the other person;

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(c) order the other person to remove, from any article that the person is wearing, any thing that might injure the searcher when doing the search;

(d) order the other person to do anything reasonable to facilitate the exercise by the searcher of any power in this section or in section 25.

(2) A person who is detained under subsection (1)(a) is to be taken to be in lawful custody.

27. Use of electronic screening devices

(1) This section applies if the security system for a CHOGM event involves the use of one or more of the following electronic screening devices —

(a) a walk-through detector;

(b) an X-ray machine;

(c) a hand held scanner.

(2) 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 do one or more of the things mentioned in subsection (3); or

(b) stop a person who is in a CHOGM security area and require that the person do one or more of the things mentioned in subsection (3).

(3) The things referred to in subsection (2) are —

(a) to walk through a walk-through detector;

(b) to pass the person's belongings through an X-ray machine;

(c) to allow the police officer or authorised person to pass a hand held scanner in close proximity to the person;

(d) to allow the police officer or authorised person to pass a hand held scanner in close proximity to the person's belongings.

(4) A police officer or an authorised person who requires a person to do one or more of those things 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.

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Subdivision 3 — Powers in relation to vehicles and vessels

28. Power to stop and search vehicles or vessels

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

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

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

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

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

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

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

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

Division 3 — Surrender and seizure of prohibited items

29. Power to require surrender of, or to seize and detain, prohibited items

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

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

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

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

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

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

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

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

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

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

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

30. Disposal of prohibited items surrendered, seized or detained

(1) A police officer or an authorised person to whom a thing is surrendered, or who seizes a thing, under section 29 need not return it to the person who surrendered it or from whom it was seized.

(2) If a thing that has been surrendered or seized under section 29 is not returned to the person who surrendered it or from whom it was seized within the period of 24 hours after its surrender or seizure —

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

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

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

31. Power to seize things relevant to offence

(1) In this section —

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

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

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

32. Application of *Criminal and Found Property Disposal Act 2006*

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

(a) any thing that is forfeited to the Crown under section 30; and

(b) any thing that is seized under section 31.

Division 4 — Directions

33. Power to give directions

(1) A police officer or an authorised person may give a direction to any person, or any group of persons assembled, in a CHOGM security area.

(2) A direction under this section must be reasonable in the circumstances for the purpose of substantially assisting in promoting the security or safety of a CHOGM event, people attending the event or the public or in preventing or controlling a public disorder.

(3) A direction under this section is to be given orally and, if given to a group of persons, is to be given in a manner that is likely to be audible to all persons in that group, or to as many of them as practicable.

(4) If a direction under this section is given to a group of persons, it is not necessary for the police officer or authorised person to repeat the direction to each person in the group.

(5) However, just because the police officer or authorised person is not required to repeat a direction does not in itself give rise to any presumption that each person in the group has received the direction.

Division 5 — Road closures

34. Power to close roads

(1) In this section —

relevant road means —

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(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.

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

35. Effect of road closure

(1) In this section, ***use*** a road includes —

(a) any use of the road by pedestrians; and

(b) driving, leaving, parking, standing or stopping a vehicle on the road.

(2) A person or vehicle must not use a road while it is closed under this Division unless —

(a) the person is a police officer or an authorised person or a designated person; or

(b) the vehicle is a police vehicle or a designated vehicle.

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(3) A person or vehicle is a ***designated person*** or ***designated vehicle***, in relation to a road, if the person or vehicle is authorised (or belongs to a class of persons or vehicles that is authorised) to use the road by the Commissioner or a police officer.

(4) An authorisation for the purposes of this section may be given orally or in writing.

(5) A road, or any part of a road, does not cease to be a road for the purposes of the *Road Traffic Act 1974*, the *Motor Vehicle (Third Party Insurance) Act 1943* or any other written law because it is closed or its use, or access to it, is restricted under this Division.

Division 6 — Removal of vehicles, vessels and things

36. Removal of vehicles, vessels and things from CHOGM security area

(1) A police officer or an authorised person may remove or cause to be removed from a CHOGM security area any vehicle, vessel or thing if the police officer or authorised person is of the opinion that it is necessary to do so.

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

37. Removal of unauthorised vehicles or things from closed road

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

38. Further provisions relating to removal of vehicles etc.

(1) A police officer or an authorised person exercising a power conferred by section 36 or 37 may be assisted by any persons the police officer or authorised person considers necessary.

(2) A vehicle, vessel or thing may be removed under section 36 or 37 to a police station or any other place where it may conveniently be detained.

(3) A police officer or an authorised person, and any person assisting a police officer or an authorised person, may drive, tow or otherwise convey a vehicle or vessel removed under section 36 or 37 —

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

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

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39. Additional powers in relation to removing vehicles and vessels

(1) For the purpose of removing a vehicle or vessel under section 36 or 37, a police officer or an authorised person, and any person assisting a police officer or an authorised person, may take any action that is reasonable or necessary to facilitate the removal of the vehicle or vessel in a manner that does the least damage to the vehicle or vessel.

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

40. Notification of removal

(1) As soon as reasonably practicable after the removal of a vehicle, vessel or thing under section 36 or 37, the police officer or authorised person who removed the vehicle, vessel or thing is to give to the owner of the vehicle, vessel or thing notice of the removal and stating the place where the vehicle, vessel or thing is kept.

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

41. Application of *Criminal and Found Property Disposal Act 2006*

If any vehicle, vessel or thing is removed under section 36 or 37 —

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

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

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

42. Excluded persons list

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

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(2) The Commissioner must take reasonable steps to contact a person in order to notify the person that the person is named in an excluded persons list.

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

(4) Without limiting subsection (3), an excluded persons list may be published —

(a) in the *Gazette*; or

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

(c) on a website.

(5) A failure by the Commissioner to notify a person that the person is named in an excluded persons list, or to notify the public of the contents of an excluded persons list, does not affect the validity of the list or otherwise limit any powers conferred by this Act in relation to persons named in the list.

43. Exclusion of persons from CHOGM security areas

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

(a) any person who, without lawful excuse, fails to comply with a requirement made of the person under section 22 for the person to disclose the person's personal details, or provide proof of the person's personal details, as a condition of entry into a CHOGM security area or when the person is in a CHOGM security area;

(b) any person who, when required under section 23 by a police officer or an authorised person to state the person's reason for wanting to enter, or for being in, a CHOGM security area, fails to satisfy the police officer or authorised person that the person has a good and lawful reason to enter or be in the CHOGM security area or a particular part of the CHOGM security area;

(c) any person who, without lawful excuse, fails to comply with a requirement made of the person under section 24 for the person to submit to a search as a condition of entry into a CHOGM security area or when the person is in a CHOGM security area;

(d) any person who, without lawful excuse, fails to comply with a requirement made of the person under section 27 for the person to do one or more of the things listed in

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section 27(3) as a condition of entry into a CHOGM security area or when the person is in a CHOGM security area;

(e) any person in or on a vehicle or vessel seeking to enter a CHOGM security area in circumstances where the person in charge of the vehicle or vessel fails, without lawful excuse, to comply with a requirement made of the person under section 28 to submit the vehicle or vessel to a search as a condition of entry into the area;

(f) any person in or on a vehicle or vessel that is in a CHOGM security area in circumstances where the person in charge of the vehicle or vessel fails, without lawful excuse, to comply with a requirement made of the person under section 28 to submit the vehicle or vessel to a search;

(g) any person who, without lawful excuse, resists, hinders or obstructs a police officer or an authorised person conducting a search under this Part in a CHOGM security area;

(h) any person who, without special justification, fails to surrender a prohibited item to a police officer or an authorised person as a condition of entry into a CHOGM security area;

(i) any person who, without special justification, is in possession or has control of a prohibited item in a CHOGM security area;

(j) any person who, without lawful excuse, fails to comply with a reasonable direction given under section 33 to the person in a CHOGM security area by a police officer or an authorised person;

(k) any person who, without lawful excuse, is on a road that is closed under Division 5;

(l) any person who, without lawful excuse, fails to comply with a restriction that applies, under section 7(b) or 11(b), to access to a CHOGM security area or part of a CHOGM security area;

(m) any person who, without lawful excuse, fails to comply with a condition that applies, under section 7(c) or 11(c), to entry to a CHOGM security area or part of a CHOGM security area;

(n) any person whose name appears on an excluded persons list.

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

(a) prevent an excludable person from entering any CHOGM security area;

(b) remove an excludable person from any CHOGM security area to another place within that or another CHOGM security area or to a place outside the CHOGM security areas;

(c) require an excludable person to disclose his or her personal details or provide proof of his or her personal details (or both) when removing the person from a CHOGM security area;

(d) without limiting paragraph (a), (b) or (c), remove any person who, without lawful excuse, is on a road that is closed under Division 5 to a place away from the road.

(3) Any action taken under subsection (2) does not prevent the taking of proceedings in respect of an offence.

Part 4 — Additional special powers in relation to restricted areas

Division 1 — Preliminary

44. Relationship of this Part with Part 3

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

Division 2 — Special powers in relation to restricted areas

45. Powers available only during CHOGM period

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

46. Restrictions on exercise of special powers

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

(a) who may exercise special powers in, or in relation to, a CHOGM security area or a part of a CHOGM security area; or

(b) which special powers may be exercised in, or in relation to, a CHOGM security area or a part of a CHOGM security area; or

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(c) where in a CHOGM security area or a part of a CHOGM security area special powers may be exercised; or

(d) when special powers may be exercised in, or in relation to, a CHOGM security area or a part of a CHOGM security area.

47. Power to enter and search premises

(1) A police officer may, without warrant, enter and search any premises located in a restricted area.

(2) The police officer must do as little damage as possible.

(3) This section does not authorise a police officer to enter any part of premises being used for residential purposes, except —

(a) with the consent of the occupier of the part of the premises; or

(b) under the authority of a search warrant or under another written law that authorises the entry.

48. Power to obtain disclosure of identity

(1) A police officer or an authorised person may, without warrant, require a person whose identity is unknown to the officer or authorised person to disclose his or her personal details if —

(a) the person is seeking to enter a restricted area (whether or not in or on a vehicle or vessel); or

(b) the person is in a restricted area (whether or not in or on a vehicle or vessel).

(2) A police officer or an authorised person may also require a person who is required under this section to disclose his or her personal details to provide proof of his or her personal details.

(3) A police officer or an authorised person who requires a person to disclose the person's personal details or to 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 restricted area or, as the case requires, removed from the restricted area.

Division 3 — Exclusion of persons from restricted areas

49. Exclusion of persons from restricted areas

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

(a) prevent a person from entering a restricted area if the person, without lawful excuse, fails to comply with a requirement made of the person under section 48 to

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disclose his or her personal details or provide proof of his or her personal details;

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

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

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

(iii) any person who, without lawful excuse, fails to comply with a requirement made of the person under section 48 to disclose his or her personal details or provide proof of his or her personal details.

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

Part 5 — Recognition of law enforcement officers and authorised persons

Division 1 — Recognition of law enforcement officers of other jurisdictions

50. Recognition of law enforcement officers of other jurisdictions

(1) The Commissioner may appoint as a recognised law enforcement officer for the purposes of this Act any person who is —

(a) a member of the Australian Federal Police; or

(b) a member of the police force of another State or of a Territory; or

(c) an employee of the New Zealand Police who holds the office of constable.

(2) The Commissioner must not make an appointment under subsection (1) unless he or she is of the opinion that the appointment is necessary for the purposes of securing the safety or security of a CHOGM event, people attending the event or the public or in preventing or controlling a public disorder.

(3) The appointment of a recognised law enforcement officer —

(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

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

(e) 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.

(5) The appointment of 2 or more recognised law enforcement officers may be in one instrument of appointment.

51. Cancellation, expiry and re-appointment

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

(2) A recognised law enforcement officer'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.

(3) A recognised law enforcement officer's appointment cannot be extended, but the Commissioner may make a further appointment under section 50 that has effect immediately an earlier appointment ceases to have effect.

52. Functions of recognised law enforcement officers

(1) A recognised law enforcement officer —

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

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

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

53. Command and control of recognised law enforcement officers

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

54. Identity card

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

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(2) The identity card must —

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

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

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

(d) include an expiry date; and

(e) state a unique identifying number.

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

55. Production or display of identity card

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

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

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

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

Division 2 — Authorised persons

56. 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 58; and

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

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(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.

57. 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.

58. Statement of powers

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

(a) the powers of an authorised person that the appointee may exercise under this Act;

(b) the time or times when those powers may be exercised;

(c) the place or places where those powers may be exercised.

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

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

59. Identity card

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

(2) The identity card must —

(a) contain a recent photograph or digital image of the authorised person; and

(b) be signed by the authorised person; and

(c) identify the person as an authorised person; and

(d) include an expiry date; and

(e) state a unique identifying number.

(3) A person who ceases to be an authorised person must return the person's identity card to the Commissioner as soon as practicable

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(but within 21 days) after the person ceases to be an authorised person.

(4) Section 70 makes failure to comply with subsection (3) without reasonable excuse an offence.

60. Production or display of identity card

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

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

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

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

Division 3 — General

61. Appointment does not make appointee public servant

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

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

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

62. Appointees are public officers

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

Part 6 — Offences

Division 1 — Offences relating to CHOGM security areas

63. Unauthorised entry to CHOGM security area

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

(a) has the consent of the organiser of the CHOGM event being held or to be held in the area; or

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(b) has a special justification to enter or remain in the area; or

(c) is otherwise authorised to enter or remain in the area.

Penalty: imprisonment for 12 months.

64. Unauthorised entry to restricted area

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

Penalty: imprisonment for 12 months.

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

(a) no steps had been taken under section 13(1)(a) to notify the public that the area that is the subject of the prosecution had been designated as a restricted area under section 12; and

(b) the person did not know that the area was a restricted area.

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

65. Interference with CHOGM event

A person must not, in a CHOGM security area —

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

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

Penalty: imprisonment for 12 months.

66. Prohibited items

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

Penalty: a fine of $6 000.

67. Failure to disclose personal details or provide proof of personal details

(1) A person must not, without reasonable excuse, fail to comply with a requirement made of the person under section 43(2)(c) for the person to disclose his or her personal details or provide proof of his or her personal details.

Penalty: imprisonment for 12 months.

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(2) A person must not, without reasonable excuse, in response to a requirement made of the person under section 43(2)(c) —

(a) give any false personal details; or

(b) produce any false evidence.

Penalty: imprisonment for 12 months.

68. Re-entering CHOGM security area after being removed

A person who has been removed from a CHOGM security area under section 43(2) by a police officer or an authorised person must not re-enter or attempt to re-enter that CHOGM security area or any other CHOGM security area during the remainder of the CHOGM period without the written authorisation of the Commissioner.

Penalty: imprisonment for 12 months.

Division 2 — Offence relating to closed roads

69. Unauthorised use of closed road

(1) In this section —

use a road has the meaning given in section 35(1).

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

Penalty: a fine of $1 000.

Division 3 — Offence relating to identity cards

70. Failure to return identity card

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

Penalty: a fine of $2 000.

Division 4 — Offence relating to airspace

71. Offence relating to unauthorised entry into restricted airspace

(1) In this section —

aircraft —

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

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

Airservices Australia means the body established by the *Air Services Act 1995* (Commonwealth) section 7(1);

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CASA means the Civil Aviation Safety Authority established by the *Civil Aviation Act 1988* (Commonwealth);

Commonwealth Air Navigation Regulations means the *Air Navigation Regulations 1947* (Commonwealth);

restricted airspace means airspace that CASA has declared under the *Airspace Act 2007* (Commonwealth) to be restricted airspace in relation to CHOGM (Perth);

State air navigation means air navigation within Western Australia to and in relation to which the Commonwealth Air Navigation Regulations are applied as if they were State law by the *Air Navigation Act 1937* section 4.

(2) A person must not, during the CHOGM period and in the course of State air navigation, cause an aircraft to enter, or operate an aircraft within, restricted airspace without an air traffic clearance given by or on behalf of Airservices Australia under the *Airspace Act 2007* (Commonwealth).

Penalty: a fine of $250 000.

(3) An offence against subsection (2) is an indictable offence.

(4) The provisions of this section prevail to the extent of any inconsistency between this section and the provisions of the Commonwealth Air Navigation Regulations (as applied to and in relation to State air navigation by the *Air Navigation Act 1937* section 4).

(5) This section does not apply to the operation of —

(a) a military aircraft, or an aircraft of the Western Australian Police Force, when being operated for military, security or emergency purposes; or

(b) an aircraft when being operated exclusively for emergency purposes relating to human life or safety, or the protection of property.

Part 7 — Miscellaneous

Division 1 — Matters of justification or excuse

72. 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

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(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

(c) the person is required, authorised or permitted to be in possession or have control of the thing in the area by the Commissioner or a police officer or an authorised person; or

(d) the person is required to be in possession or have control of the thing in 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 has possession or control of the thing in residential premises of the person that are located in the area; or

(f) the person is in possession or has control of the thing in the area in other circumstances prescribed by the regulations.

73. Onus of proof of lawful excuse etc.

(1) The onus of proof of lawful excuse or reasonable excuse or special justification (whether in proceedings for an offence against a provision of Part 6 or in relation to the exercise of powers conferred by this Act (other than Part 8)) lies on the person accused of the offence or who claims to have the lawful excuse, reasonable excuse or special justification (as the case may be).

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(2) Nothing in this section limits the *Criminal Procedure Act 2004* section 78.

Division 2 — Evidential matters

74. Proof of unpublished orders and of appointments

(1) In proceedings for an offence against this Act or any other Act, the following averments in the indictment or prosecution notice are sufficient evidence of the facts averred unless the contrary is shown —

(a) that an order was made under section 8 declaring a stated area to be an additional security area, the date and time when the order was signed, the period specified in the order for which the area was to be an additional security area, the time or times (if any) at which the area was to be an additional security area, and any matters specified or stated under section 11;

(b) that an order was made under section 12 designating a stated area within a CHOGM security area to be a restricted area, the date and time when the order was signed, and the period (if any) specified in the order for which the area was to be a restricted area;

(c) that an order was made under section 14 declaring a stated meeting, event, function or activity to be a CHOGM event, and the date and time when the order was signed;

(d) that a stated person was, at a stated time or during a stated period —

(i) a recognised law enforcement officer; or

(ii) an authorised person.

(2) Subsection (1)(a) does not apply if the order made under section 8 is published in the *Gazette*.

(3) Subsection (1)(b) does not apply if the order made under section 12 is published in the *Gazette*.

(4) Subsection (1)(c) does not apply if the order made under section 14 is published in the *Gazette*.

Division 3 — Exercise of powers

75. Use of force by police officers and authorised persons

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

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76. Provision relating to powers

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

Division 4 — Relationship with other laws

77. Relationship with other laws

(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.

(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.

Division 5 — Immunities

78. No liability in nuisance

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

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

(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.

(2) This section does not limit section 79.

79. Protection from liability for wrongdoing

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

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

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

(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).

(3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.

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(4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

(5) This section overrides the *Police Act 1892* section 137.

Division 6 — Other provisions

80. Power of delegation

(1) The Commissioner may delegate any power or duty of the Commissioner under this Act (other than Part 8) to a police officer who is, or is acting as, a Deputy Commissioner or an Assistant Commissioner.

(2) Without limiting subsection (1), the Commissioner may delegate any power or duty of the Commissioner under section 34 to a police officer who is, or is acting as, a Superintendent or an officer of a rank more senior than a Superintendent.

(3) The delegation must be in writing signed by the Commissioner.

(4) A police officer to whom a power or duty is delegated cannot delegate that power or duty.

(5) A police officer exercising or performing a power or duty that has been delegated to the police officer under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

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

82. Regulations

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

Division 7 — Review of Act

83. 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.

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Defined Terms

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

Defined Term	Provision(s)
additional security area	3
authorised person	3
basic search	3
CCC Commissioner	81(1)
CHOGM	3
CHOGM (Perth)	3
CHOGM event	3
CHOGM period	3
CHOGM security area	3
Commission	81(1)
Commissioner	3
core security area	3
excludable person	3
excluded persons list	3
fail to comply	3
frisk search	3
officer of the Commission	81(1)
personal details	3
police vehicle	3
prohibited item	3
recognised law enforcement officer	3
restricted area	3
road	3
special justification	3
special power	3
vehicle	3
vessel	3

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