

Passed by both Houses



New South Wales

# Law Enforcement (Powers and Responsibilities) Amendment Bill 2007

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2007*



New South Wales

## **Law Enforcement (Powers and Responsibilities) Amendment Bill 2007**

Act No , 2007

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An Act to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to make further provision with respect to the powers of police officers and scene of crime officers, and with respect to warrants.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Law Enforcement (Powers and Responsibilities) Amendment Act 2007*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103**

The *Law Enforcement (Powers and Responsibilities) Act 2002* is amended as set out in Schedule 1.

**4 Repeal of Act**

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1 Amendments

(Section 3)

**[1] Section 3 Interpretation**

Insert in alphabetical order in section 3 (1):

*scene of crime officer* means a member of the NSW Police Force responsible for examining or maintaining crime scenes.

**[2] Section 23A**

Insert after section 23:

**23A Ancillary power to search persons**

(1) In conducting a search of a person under section 23, a police officer may, if the police officer suspects on reasonable grounds that a thing of a kind referred to in section 23 (1) or (2) is concealed in the person's mouth or hair, request the person:

- (a) to open his or her mouth, or
- (b) to shake, or otherwise move, his or her hair.

(2) Subsection (1) does not authorise a police officer to forcibly open a person's mouth.

(3) A person must not, without reasonable excuse, fail or refuse to comply with a request made by a police officer in accordance with this section and section 201.

Maximum penalty: 5 penalty units.

**[3] Section 67 Notice to occupier of premises entered pursuant to warrant**

Omit section 67 (2) (b) (ii).

**[4] Section 73A Extension of warrant**

Insert “, except as provided by subsection (7)” after “its issue” in section 73A (6) (a).

**[5] Section 73A (7) and (8)**

Insert after section 73A (6):

(7) A crime scene warrant may be extended so that it has effect for a period of up to 720 hours after its issue if:

- (a) the offence in connection with which the warrant was issued is a terrorism offence, and

- (b) the authorised officer who issued the warrant is satisfied that there are reasonable grounds for extending the warrant beyond a period of 144 hours after its issue.

**Note.** 720 hours is equivalent to 30 days.

- (8) In this section:  
*terrorism offence* means an offence under Part 6B of the *Crimes Act 1900* or an offence under Division 101, 102 or 103 of the *Criminal Code* of the Commonwealth.

**[6] Section 91 Establishment of crime scene**

Insert after section 91 (2):

- (3) A crime scene may not be established under this Part on the same premises more than once in a 24 hour period unless a crime scene warrant is obtained in respect of the second and any subsequent occasion.

**[7] Section 92 Exercise of powers at crime scene**

Omit “established by the police officer or another police officer” wherever occurring in section 92 (1) (a) and (2) (a).

Insert instead “established under this Part”.

**[8] Section 92 (4)**

Omit the subsection. Insert instead:

- (4) A police officer may exercise crime scene powers in relation to a crime scene whether or not the police officer is the person who established the crime scene.

**[9] Sections 92 (5) and 94 (4)**

Omit “any member of the NSW Police Force responsible for examining or maintaining a crime scene” wherever occurring.

Insert instead “a scene of crime officer”.

**[10] Section 95A**

Insert after section 95:

**95A Special arrangements for investigation of stolen vehicles**

- (1) A scene of crime officer may establish a crime scene in relation to a vehicle in a public place if:
- (a) a vehicle has been reported as stolen by an owner or authorised user of the vehicle, and

- 
- (b) the scene of crime officer suspects on reasonable grounds that the vehicle in relation to which the crime scene is to be established is that stolen vehicle.
  - (2) Sections 91 and 93 apply in relation to a crime scene established by a scene of crime officer under this section in the same way as they apply to a crime scene established by a police officer.
  - (3) A scene of crime officer may exercise any investigatory powers in relation to the vehicle at the crime scene established under this section, without a warrant, if the scene of crime officer suspects on reasonable grounds that it is reasonably necessary to exercise the investigatory powers to preserve, or search for and gather, evidence of the theft of the vehicle.
  - (4) A scene of crime officer does not require the authority of a police officer to exercise investigatory powers under this section.
  - (5) A scene of crime officer may exercise the investigatory powers conferred by this section for a period of not more than 3 hours, commencing when the crime scene is established, unless a police officer obtains a crime scene warrant in respect of the crime scene.
  - (6) This section does not prevent a scene of crime officer from exercising any power, or doing any other thing, in relation to a vehicle if the owner or authorised user of the vehicle consents.
  - (7) For the purposes of this section, *investigatory powers* are the crime scene powers referred to in section 95 (1) (g)–(j) and (l)–(o), including section 95 (1) (p) as it applies to those powers.

**[11] Part 11, Division 3 Use of medical imaging to search for internally concealed drugs**

Omit the Division.

**[12] Section 187 Use of tyre deflation devices**

Omit section 187 (1). Insert instead:

- (1) The Commissioner may authorise the use by police officers of a device (a *tyre deflation device*) that causes the deflation of the tyres of a vehicle:
  - (a) to enable police to stop or assist in the stopping of a vehicle in connection with the pursuit of the vehicle by police, or
  - (b) to enable police to prevent the use of the vehicle by a person for the purpose of escaping from lawful custody or avoiding arrest.

**[13] Schedule 5 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Law Enforcement (Powers and Responsibilities) Amendment Act  
2007*

**[14] Schedule 5, Part 6**

Insert after Part 5:

**Part 6 Provisions consequent on enactment of  
Law Enforcement (Powers and  
Responsibilities) Amendment Act 2007**

**14 Changes to search warrant provisions**

An amendment made to Part 5 by the *Law Enforcement (Powers and Responsibilities) Amendment Act 2007* does not apply to a warrant issued before the commencement of the amendment.