



SAMOA

POLICE POWERS ACT 2007

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POLICE POWERS ACT 2007

2007

No. 27

AN ACT to provide police officers with certain powers necessary to carry out enforcement activities.

[Assent and commencement date: 19 November 2007]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1
PRELIMINARY**

1. Short title and commencement—(1) This Act may be cited as the Police Powers Act 2007.

(2) This Act comes into force on the date of assent of the Head of State.

(3) Notice of commencement of this Act shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

2. Interpretation—(1) In this Act, unless the contrary intention appears:

“interception device” means any electronic, mechanical, or electromagnetic instrument, apparatus, equipment, or other device that is used or is capable of being used to intercept a private communication;

“Judge” means a Judge of the Supreme Court.

“Minister” means the Minister who under the Constitution is given responsibility for this Act;

“optical surveillance device” means any device capable of being used to record visually or observe an activity but does not include spectacles contact lenses or a similar device used by a person with impaired sight to overcome that impairment;

“owner” means:

(a) the person registered as the owner of the vehicle or a person in lawful possession of such vehicle; or

(b) the purchaser or receiver of a vehicle registered in an owner’s name if –

(i) such vehicle is sold or transferred of by the registered owner to the purchaser or receiver; and

(ii) the owner provided written notice of sale or transfer to the Service;

“police dog” means a dog that is used by a police officer or accompanies a police officer in the execution of that officer’s duties;

“premises” includes an aircraft, vehicle, boat or ship and any structure such as a cooking *fale* that, although not

- connected to another premises, is used by the occupants of that other premises;
- “private communication” means a communication (whether in oral or written form or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the communication desires it to be confined to the parties to the communication;
- “serious offence” means an offence against any law of Samoa that would constitute unlawful activity;
- “Service” has the meaning given to it under the Police Service Act 2009;
- “surveillance device” means an interception device or an optical surveillance device;
- “surveillance warrant” means a warrant referred to in section 3(1);
- “this Act” includes regulations made under this Act;
- “unlawful activity” means any act or omission that constitutes an offence and that is punishable, under the laws of Samoa, by imprisonment for a maximum period of not less than 12 months, but does not include any crimes that relate, directly or indirectly, to the regulation, imposition, calculation or collection of taxes or the enforcement of exchange control regulations;
- “vehicle” has the same meaning given to it under the Road Traffic Ordinance 1960.

(2) Except so far as the contrary intention appears, an expression that is used in this Act and is defined in the Police Service Act 2009 has in this Act the same meaning as in the Police Service Act 2009.

PART 2

SURVEILLANCE WARRANTS

3. Application for a surveillance warrant—(1) An application may be made in accordance with this section to a Judge for a warrant for any member of the police to:

- (a) intercept a private communication by means of an interception device; or
- (b) to record visually or observe an activity of a person by means of an optical surveillance device; or
- (c) to use both an interception device and an optical surveillance device, –

in any case where there are reasonable grounds for suspecting that a person is planning, participating in, or committing, or has planned, participated in, or committed a serious offence.

(2) An application under subsection (1) shall be in writing and on oath, and set out the following particulars:

- (a) the facts relied upon to show that there are reasonable grounds for suspecting that a person is planning, participating in, or committing, or has planned, participated in, or committed a serious offence; and
- (b) a description of the manner in which it is proposed to intercept private communications or record or observe activities; and
- (c) the name and address, if known, of the person whose private communications or a record or observations of whose activities there are reasonable grounds for suspecting will assist the police investigation of the case or if the name and address of the suspect are not known, a general description of the premises, place, thing, or type of facility in respect of which it is proposed to intercept private communications or record or observe activities; and
- (d) the period for which a warrant is requested.

3A. Purpose of surveillance warrants –The purpose of a surveillance warrant is to allow police to gather information and evidence that will assist them in their fight against organised crimes.

4. Matters on which Judge must be satisfied in respect of applications –On an application made under section 3, the Judge may grant a surveillance warrant if satisfied that it would be in the best interests of the administration of justice to do so, and that:

- (a) there are reasonable grounds for suspecting that a person is planning, participating in, or committing, or has planned, participated in, or committed a serious offence; and
- (b) there are reasonable grounds for suspecting that evidence relevant to the investigation of the case

will be obtained through the use of a surveillance device to intercept private communications or record or observe activities.

5. Content and terms of warrant—(1) A surveillance warrant shall:

- (a) state the offence or offences in respect of which the warrant is granted; and
- (b) if the warrant relates to the use of a surveillance device on premises, state the name and address of the suspect whose private communications may be intercepted or whose activities may be recorded or observed or, if the suspect's name and address are not known, the general description of the premises, place, thing, or type of facility in respect of which the private communications will be intercepted or activities recorded or observed; and
- (c) if the warrant authorises the use of a surveillance device in respect of the conversations, activities or location of a person, state the name of the person (if known) or the fact that the person's identity is unknown; and
- (d) contain additional terms and conditions that the Judge considers to be advisable in the public interest.

(2) Without limiting subsection (1), where it is proposed to place a surveillance device in the residential or business premises of a person who is a lawyer, or a clergyman, or a medical practitioner or such other person as determined by the Judge, the Judge may attach conditions that the Judge considers desirable to avoid so far as practicable the interception of communications or recording or observing of activities of a professional character to which the lawyer or clergyman or medical practitioner or such other person as determined by the Judge is a party.

(3) Without limiting subsection (1), a surveillance warrant need not be limited to particular premises and can apply in relation to an interception device or optical surveillance device designed to intercept communications or observe or record activities involving a person wherever that person may be.

(4) A surveillance warrant has effect, according to its terms, to:

- (a) authorise the interception of private communications by means of an interception device; or
 - (b) authorise the recording visually or observing of an activity of a person by means of an optical surveillance device; or
 - (c) authorise paragraphs(a) and (b).
- (5) A surveillance warrant also authorises:
- (a) the retrieval of the surveillance device; and
 - (b) entry (with such force as necessary) to any premises for the purpose of placing, servicing or retrieving a surveillance device; and
 - (c) the connection of the surveillance device to any source of electricity and the use of electricity from that source to operate the surveillance device; and
 - (d) the provision of assistance or technical expertise to the police officer primarily responsible for the execution of the warrant in the installation, use, maintenance or retrieval of the surveillance device.
- (6) A surveillance warrant is valid for the period, not exceeding 90 days, specified in the warrant.

6. Renewal of warrant—(1) A Judge may grant a renewal of a surveillance warrant upon an application made before the warrant (or any current renewal of the warrant) has expired.

- (2) An application for a renewal of a warrant must:
- (a) give the reason and period for which the renewal is required; and
 - (b) be accompanied by full particulars, together with times and dates, of any interceptions made or attempted under the warrant and an indication of the nature of the information that has been obtained by every such interception; and
 - (c) be supported by such other information as the Judge may require.

(3) A renewal of a surveillance warrant may be granted under this section if the Judge is satisfied that the circumstances described in section 4 still apply.

(4) A renewal of a surveillance warrant is valid for the period, not exceeding 90 days, specified in the renewal.

(5) A renewal of a surveillance warrant may be granted upon an application made within the time prescribed by subsection (1) even if the warrant (or any renewal of the warrant) has expired before the application is determined.

(6) Nothing in this section prevents a Judge from granting a second or subsequent renewal of a surveillance warrant upon an application duly made.

7. Emergency permit—(1) In any case where a Judge is satisfied that circumstances exist that would justify the grant of a surveillance warrant under section 4, but the urgency of the situation requires that the interception or recording or observing should begin before a warrant could with all practicable diligence be obtained, the Judge may, orally or in writing, grant an emergency permit for the interception of private communications or the recording or observing of activities in respect of particular premises or person or a particular place or a particular thing or particular type of facility and in a particular manner.

(2) An application for an emergency permit may be made orally.

(3) So far as it is capable of applying, section 5 applies to emergency permits in the same manner as it applies to surveillance warrants.

(4) An emergency permit is valid for 48 hours from the time when it is given, and then expires.

8. Admissibility of evidence obtained – Material obtained pursuant to a surveillance warrant granted under section 4 or a permit granted under section 7 is admissible as evidence in any proceedings for prosecution of a serious offence.

9. Minor defect in connection with surveillance warrant or permit—(1) If information or a record is purportedly obtained through the use of a surveillance device authorised by a surveillance warrant granted under section 4 or a permit granted under section 7 and there is a minor defect or irregularity in relation to the surveillance warrant or permit and but for that defect or irregularity the warrant or permit would have been sufficient authority for the action taken, then:

- (a) the use of that surveillance device is to be treated as being valid; and

- (b) the information or record obtained pursuant to that surveillance warrant or permit is admissible as evidence, as if the surveillance warrant or permit did not have that defect or irregularity.

(2) A reference in subsection (1) to a defect or irregularity in relation to a surveillance warrant or permit is a reference to a defect or irregularity (other than a substantial defect or irregularity):

- (a) in, or in connection with, the issue of, a document purporting to be that surveillance warrant or permit; or
- (b) in connection with the execution of that surveillance warrant or permit or the purported execution of a document purporting to be that surveillance warrant or permit.

10. Prohibition on disclosure of private communications etc., lawfully intercepted or recorded – A person who:

- (a) intercepts or assists in the interception of a private communication in pursuance to a surveillance warrant or emergency permit; or
- (b) acquires knowledge of a private communication as a direct or indirect result of that interception; or
- (c) makes a record of the activities of a person, –
and knowingly discloses the substance, meaning, or purport of that communication or recording, or any part of that communication or recording otherwise than in the performance of that person’s duty commits an offence and is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 6 months, or both.

11. Assistance to police executing a warrant or a permit –

It is a condition of a licence issued under Part 3 of the Telecommunications Act 2005 that the licensee provides such assistance to police executing a warrant granted under section 4 or a permit granted under section 7 in respect of an interception device as is required by the police.

12. Commissioner of Police to give information to Legislative Assembly – As soon as practicable after 1 January the Commissioner shall present to the Legislative Assembly a report stating:

- (a) the number of applications for warrants made under section 3; and
- (b) the number of applications for renewals of warrants made under section 6; and
- (c) the number of applications for emergency permits made under section 7; and
- (d) the number of applications referred to in each of paragraphs (a) to (c) that were granted, and the number that were refused; and
- (e) the number of prosecutions that have been instituted in which evidence obtained directly or indirectly from an interception or optical surveillance carried out pursuant to a warrant or permit has been adduced, and the result of those prosecutions; and
- (f) the number of warrants that did not result in any charges being laid within 90 days of the date on which the warrant expired.

PART 3 FIREARMS AND EXPLOSIVES

13. Police officer or person having possession of firearm etc., in performance of duties—(1) Subject to subsection (2) and where it is appropriate to do so, the Commissioner may authorise a person to assist police in the exercise of their duties as a police officer.

(2) The Commissioner shall not permit a police officer to have in his or her possession a firearm, ammunition, explosives or dangerous weapons for use in the exercise of that officer's duties and shall not authorise a person to have in his or her possession a firearm, ammunition, explosives or dangerous weapons to assist police in the exercise of their duties of a police officer unless:

- (a) the Minister has approved the arming of the police officer or person; and
- (b) the police officer or person has satisfactorily carried out appropriate training in the safe use of firearms and dangerous weapons.

(3) The Minister may only approve a police officer or person to be armed under subsection (2)(a) if:

- (a) the arming is required because of exceptional circumstances, taking into account circumstances, such as –
 - (i) the nature and seriousness of the offence;
 - (ii) the behaviour or conduct of the suspect;
 - (iii) the Minister has reason to believe or has been advised by the Police Commissioner that the suspect may be armed or in possession of arms;
 - (iv) the Minister has reason to believe that the life of any police officer or person executing the warrant or undertaking the investigation may be threatened with any dangerous weapons, including arms; and
 - (v) the Minister has reason to believe that the safety of the public is under threat.
- (b) the arming is otherwise in accordance with relevant police internal orders or rules; and
- (c) the Minister has first consulted the Attorney General.

(3A) The approval of the Minister issued under subsection (2)(a) shall have a commencement and expiration date

(4) Subject to section 15, a police officer or person authorised to have in his or her possession a firearm, ammunition, explosives or dangerous weapons under this section may only carry and use that firearm, ammunition, explosives or dangerous weapons in accordance with relevant police internal orders or prescribed rules.

(5) A police officer who has in his or her possession a firearm, ammunition, explosives or dangerous weapons for use in the exercise of that officer's duties as a police officer, does not commit an offence under the Arms Ordinance 1960 or any other enactment in respect of carrying or being in possession of that firearm, ammunition, explosives or dangerous weapons.

(6) A person authorised under this section to assist police in the exercise of the duties of a police and who has in his or her possession a firearm, ammunition, explosives or dangerous weapons for use in the exercise of those duties, does not commit an offence under the Arms Ordinance 1960 or any other enactment in respect of carrying or being in possession of that firearm, ammunition, explosives or dangerous weapons.

13A. Police officers not to be armed except in accordance with this Part—Subject to section 13, police officers may not be armed in the daily performance of their duties.

14. Importation of explosives, firearms and ammunition by police—(1) Subject to the Cluster Munitions Prohibition Act 2012, the Commissioner of Police may with the prior approval of Cabinet, import or cause to be imported explosives, ammunition or firearms for use by police officers in the exercise of duties as a police officer.

(2) Despite the Customs Act 2014 or any other enactment, an importation referred to in subsection (1) is authorised and the importer does not commit any offence in respect of that importation.

15. Discharge of firearms by police officer and person assisting a police officer—(1) Other than in the circumstances set out in subsection (2), a police officer or person authorised under section 13 to have in his or her possession a firearm may only discharge that firearm:

- (a) in self-defence or the defence of another person under threat of immediate serious violence; or
- (b) in other exceptional circumstances where there is no other reasonable course of action open to the police officer's duties.

(2) Subject to subsection (1), a police officer may only discharge a firearm in the execution of that police officer's duties:

- (a) during firearms training; or
- (b) for the purpose of lawfully destroying animals; or
- (c) for State ceremonial purposes.

(3) Where a police officer or person discharges a firearm in the circumstances set out in subsection (1), the officer or person shall as soon as practicable provide a written report to the Commissioner.

PART 4 VISITING SPECIALISTS

15A. Definition—(1) In this Part, unless the contrary intention appears:

“inter-government agreement” means an agreement between Samoa and another country for the provision of visiting specialists by that other country to carry out specified activities;

“specified activities” means activities:

- (a) relating to goodwill missions; or
- (b) as security to visiting foreign dignitaries; or
- (c) as otherwise specified by order issued by the Head of State acting on the advice of Cabinet;

“visiting specialists” means a team of police or specially trained persons from another country that are in Samoa at the request of the Government pursuant to an inter-governmental agreement to carry out specified activities.

(2) An inter-governmental agreement may impose conditions on the carrying out of the specified activities by the visiting specialists.

16. Use of force and police powers by members of visiting specialists—(1) Members of the visiting specialists may exercise any powers that may be exercised by police officers.

(2) Members of the visiting specialists may use such force as is reasonably necessary to achieve a public purpose.

17. Carriage of weapons by the visiting specialists—(1) Members of the visiting specialists may possess, carry and use firearms, ammunition, explosives or dangerous weapons in accordance with their internal orders or rules in order to:

- (a) protect themselves or the visiting specialists; or
- (b) protect other persons; or
- (c) protect public or private property; or
- (d) achieve a public purpose.

(2) A member of the visiting specialists does not commit an offence under the Arms Ordinance 1960 or any other enactment in respect of carrying or being in possession of that firearm, ammunition, explosives or dangerous weapon in the circumstances referred to in subsection (1).

18. Entry and departure of members of the visiting specialists—Members of the visiting specialists shall be exempt from any visa laws and immigration inspection and restrictions when entering or departing from Samoa.

19. Immunity from legal proceedings—(1) Members of the visiting specialists have immunity from legal proceedings in relation to actions of the visiting specialists or its members that are taken in the course of, or are incidental to, official duties.

(2) In this section, “legal proceedings” includes criminal and civil proceedings.

(3) The country from which the visiting specialists come may waive immunity granted by this section.

PART 5 FORENSIC SAMPLES

20. Definitions—(1) In this Part, unless the contrary intention appears:

“forensic procedure” means:

- (a) an examination of a part of the body that requires touching of the body or removal of clothing;
- (b) the taking of a sample of hair;
- (c) the taking of a sample from or under a fingernail or toenail;
- (d) the taking of a sample of saliva or a sample by a swab;
- (e) the taking of a sample by swab or washing from any external part of the body;
- (f) the taking of a sample by vacuum suction, by scraping or by lifting by tape from any external part of the body;
- (g) the taking of a handprint, fingerprint, footprint or toeprint;
- (h) the taking of a photograph of, or an impression or cast of a wound from, a part of the body;
- (i) the taking of a sample for breathalyser analysis;
- (j) the taking of a sample of blood or other bodily fluid;

“forensic sample” means material obtained from a forensic procedure;

“suspect” means:

- (a) a person suspected by a police officer, on reasonable grounds, to have committed a serious offence;
- (b) a person charged with a serious offence;

- (c) a person who has been summoned to appear before a court for a serious offence.

21. Taking a forensic sample—(1) If there are reasonable grounds for suspecting that a person is planning, participating in, or committing, or has planned, participated in, or committed a serious offence and a forensic sample may provide evidence in relation to that serious offence, a police officer may conduct a forensic procedure to obtain that forensic sample.

(2) If a police officer carries out a forensic procedure on a person, the police officer must make and sign a record of the carrying out of that procedure as soon as practicable afterwards.

(3) The police officer must ensure that a copy of the record is made available to the person as soon as practicable after the record is made.

22. General rules for carrying out forensic procedures—

(1) A forensic procedure:

- (a) must be carried out in circumstances providing reasonable privacy to the suspect; and
- (b) except if permitted by the person who is the subject of the procedure, wherever possible, must not be carried out in the presence or view of anyone who is of the opposite sex to the suspect; and
- (c) must not be carried out in the presence or view of a person whose presence is not necessary for the forensic procedure or required or permitted under another provision of this Act; and
- (d) must not involve the removal of more clothing than is necessary for carrying out the procedure; and
- (e) must not involve more visual inspection than is necessary for carrying out the procedure.

(2) Where a forensic procedure is carried out on a minor, wherever possible a relative of that minor shall be present during the carrying out of that forensic procedure.

23. Use of force in carrying out forensic procedures—(1) A police officer when carrying out a forensic procedure on a person may use reasonable force:

- (a) to enable a forensic procedure to be carried out; or

(b) to prevent loss, destruction or contamination of any sample.

(2) A forensic procedure must be carried out in a way consistent with appropriate medical or other relevant professional standards.

(3) A forensic procedure shall not be carried out in a cruel, inhuman or degrading way.

24. Admissibility of forensic sample –A forensic sample obtained under section 21 is admissible as evidence in any proceedings for prosecution of a serious offence.

25. Samples–(1) This section applies to a forensic sample taken from a suspect under this Act if there is sufficient material for an analysis to be carried out by not only the police officers investigating the offence concerned but also by or on behalf of the suspect.

(2) The investigating police officer must ensure that:

- (a) a part of the material sufficient for analysis is made available to the suspect as soon as practicable; and
- (b) reasonable care is taken to ensure that the suspect's part of the material is protected and preserved until the suspect receives it; and
- (c) reasonable assistance is given to the suspect to ensure that the material is protected and preserved until it is analysed.

26. Refusing to allow forensic procedure – A person who:

- (a) refuses to comply with any reasonable direction in connection with the carrying out of the forensic procedure; or
 - (b) obstructs, resists, hinders, uses violence against, threatens or intimidates a person in connection with the carrying out of the forensic procedure, –
- Commits an offence and is liable to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 12 months, or both.

27. Approved testing facility–(1) The Minister may approve a laboratory or other facility in Samoa or elsewhere as an approved testing facility for forensic samples.

(2) Information provided by an approved testing facility referred to in subsection (1) as to matters such as the chemical composition of a forensic sample is admissible as evidence in any proceedings for prosecution of a serious offence.

**PART 6
POWERS OF ENTRY AND SEIZURE**

28. Police general powers of entry – A police officer may enter premises, and may take the action that is necessary and reasonable to prevent the commission or repetition of an offence or of a breach of the peace or to protect life or property:

- (a) when invited onto the premises by a person who is or is reasonably believed to be a resident of the premises for the purpose of giving assistance to a person on the premises who has suffered, or is in imminent danger of suffering, physical injury at the hands of some other person; or
- (b) under a warrant; or
- (c) in circumstances of seriousness and urgency.

29. Power to enter premises to arrest offender–(1) If:

- (a) a police officer has, under a warrant, power to arrest a person for an offence; and
- (b) the officer believes on reasonable grounds that the person is on any premises, –

the police officer may enter the premises, using the force that is necessary and reasonable in the circumstances, at any time of the day or night for the purpose of searching the premises for the person or arresting the person.

(2) If:

- (a) a police officer has reasonable grounds to believe that a person is planning, participating in, or committing, or has planned, participated in, or committed a serious offence; and
- (b) the officer believes on reasonable grounds that the person is on any premises,–

the police officer may enter the premises, using the force that is necessary and reasonable in the circumstances, at any time of the day or night for the purpose of searching the premises for the person or arresting the person.

30. Power to conduct search of arrested person – If a police officer suspects on reasonable grounds that a person who has been arrested is carrying evidential material in relation to any offence, the police officer may conduct search of the person at or soon after the time of arrest, and seize any such thing found as a result of the search.

31. Power to conduct search of arrested person's premises – A police officer who arrests a person at premises for an offence, or who is present at such an arrest, may seize things in plain view at those premises that the police officer believes on reasonable grounds to be evidential material in relation to any offence.

32. The things that are authorised by search warrant–
(1) A warrant in force for the search of premises authorises the executing police officer or an assisting police officer:

- (a) to enter the warrant premises; and
- (b) to search for and record fingerprints found at the premises and to take samples of things found at the premises for forensic purposes; and
- (c) to search the premises for the kinds of evidential material specified in the warrant, and to seize things of that kind found at the premises; and
- (d) to seize other things found at the premises in the course of the search that the executing officer or an assisting officer believes on reasonable grounds to be—
 - (i) evidential material in relation to an offence to which the warrant relates; or
 - (ii) evidential material in relation to any offence,—if the executing officer or an assisting officer believes on reasonable grounds that seizure of the things is necessary to prevent their concealment, loss or destruction or their use in committing an offence.

(2) A warrant in force for the search of a person authorises the executing officer or an assisting officer:

- (a) to search the person as specified in the warrant, things found in the possession of the person and any recently used conveyance for things of the kind specified in the warrant; and
- (b) to—
 - (i) seize things of that kind; or
 - (ii) record fingerprints from things; or
 - (iii) to take forensic samples from things found in the course of the search; and
- (c) to seize other things found in the course of the search on, or in the possession of, the person or in the conveyance that the executing officer or an assisting officer believes on reasonable grounds to be—
 - (i) evidential material in relation to an offence to which the warrant relates; or
 - (ii) a thing relevant to any offence, – if the executing officer or an assisting officer believes on reasonable grounds that seizure of the things is necessary to prevent their concealment, loss or destruction or their use in committing an offence.

33. Availability of assistance and use of force in executing warrant – In executing a warrant:

- (a) the executing police officer may obtain the assistance that is necessary and reasonable in the circumstances; and
- (b) the executing police officer, or a police officer assisting in executing the warrant, may use the force against persons and things that is necessary and reasonable in the circumstances.

34. Specific powers available to police officers executing warrant in relation to premises–(1)In executing a warrant in relation to premises, the executing police officer or an assisting police officer may:

- (a) for a purpose incidental to the execution of the warrant; or
- (b) if the occupier of the premises consents in writing,–

take photographs (including video recordings) of the premises or of things at the premises.

35. Use of equipment to examine or process things –The executing police officer or an assisting police officer may bring to premises that are the subject of a warrant any equipment reasonably necessary for the examination or processing of things found at the premises.

36. Stopping, searching and detaining people–(1) This section applies if a police officer suspects, on reasonable grounds, that:

- (a) a person is carrying, or otherwise has in his or her possession, a thing relevant to a serious offence or a thing stolen or otherwise unlawfully obtained; and
 - (b) it is necessary to exercise a power under subsection (2) to prevent the thing from being concealed, lost or destroyed; and
 - (c) it is necessary to exercise the power without the authority of a search warrant because the circumstances are serious and urgent.
- (2) If this section applies, the police officer may:
- (a) stop and detain the person; and
 - (b) conduct a search of the person for the relevant thing; and
 - (c) seize the thing if the officer finds it.

(3) If, in the course of searching for the relevant thing, the police officer finds any evidential material, the officer may seize the material if the officer suspects, on reasonable grounds, that:

- (a) it is necessary to seize it to prevent its concealment, loss or destruction; and
- (b) it is necessary to seize it without the authority of a search warrant because the circumstances are serious and urgent.

PART 6A ROAD TRANSPORT

Division 1 – Principal Licensing Authority

36A. Service is the Principal Licensing Authority—The Service is the Principal Licensing Authority under the Road Traffic Ordinance 1960.

36B. Service to keep Register—The Service must establish and maintain a Register with all prescribed particulars of a vehicle and the owner of such vehicle.

36BA. Delegation of Powers - (1) The Commissioner may in writing, delegate the Services' function under section 36A, to any capable entity.

(2) A delegation under sub-section (1) may be revoked, renewed or varied at any time by the Commissioner.

Division 2 – Functions and powers

36C. Commissioner may approve forms—The Commissioner may approve forms to be used under this Part.

36D. Functions regarding vehicle registration, licensing and road use management—(1) The Service is responsible for:

- (a) registration of vehicles and licensing drivers in accordance with any law;
- (b) establishing and enforcement of standards for vehicle registration and licensing of drivers;
- (c) promoting safe road use and vehicle safety;
- (d) inspection of vehicles;
- (e) controlling or prohibiting the use of vehicles that are considered—
 - (i) to be in breach of applicable standards or requirements; or
 - (ii) unsafe to users of the vehicle or the general public; and
- (f) formulation and implementation of road safety campaigns.

(2) The Service has the powers required to undertake its functions under subsection (1).

36E. Road Transport Regulations—The Head of State may make Regulations prescribing the following:

- (a) application process for the registration of vehicles;
and
- (b) particulars to be kept in the Register; and
- (c) requirements for—
 - (i) the delivery of notices and other documents;
and
 - (ii) change of name and address; and
- (d) requirements for becoming a licensed driver of a vehicle; and
- (e) subject to the approval of the National Revenue Board, fees payable for—
 - (i) an application to be considered by the Service under this Part;
 - (ii) the issuing of a licence, registration, certificate or permit; or
 - (iii) changing any record.

PART 7 MISCELLANEOUS

37. Authority to use police dogs—(1) If a police officer is authorised to search a person for the purpose of detecting a drug offence or an offence involving explosives, the officer is entitled to use a dog for that purpose.

(2) For the purpose of detecting a drug offence or an offence involving explosives, a police officer is entitled to be accompanied by a dog.

(3) Neither the Government or a police officer is liable for any action, liability, claim or demand merely because a dog entered or was in or on the premises as provided by this section.

38. Injuring or attempting to injure a police dog—(1) A person who without lawful excuse injures a police dog or attempts to injure a police dog commits an offence and is liable to imprisonment for a term not exceeding 12 months or to fine not exceeding 20 penalty units or to both.

(2) In addition to any other penalty under this section, the court may order that the person pay compensation to the Government for the cost of the veterinary treatment of the police dog.

39. Application of other enactments—(1) This Act is not intended to limit or exclude the operation of any other enactment relating to:

- (a) the detention and search of persons; or
- (b) the search of premises; or
- (c) arrest and related matters; or
- (d) the seizure of things.

(2) To avoid any doubt, it is declared that even though another enactment provides power to do 1 or more of the things referred to in subsection (1), a similar power given by this Act may be used despite the existence of the power under the other enactment.

40. Regulations – The Head of State acting on the advice of Cabinet may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

41. Consequential amendment of the Arms Ordinance 1960 – The Arms Ordinance 1960 is amended:

- (a) by omitting from section 6(1) the words “No person shall” and substituting “Subject to section 14 of the Police Powers Act 2007, no person shall”; and
- (b) by omitting section 12(2A).

REVISION NOTES 2008–2020/3 March 2021

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division from 2008 - 2020/3 March 2021 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Insertion of the commencement date;
- (b) Other minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:
 - (i) Removal/replacement of obsolete and archaic terms with plain language;
 - o “notwithstanding” changed to “despite” or “even if”;
 - o “furnish” changed to “provide” or “submit”;

- “where” changed to “if”;
- (ii) Numbers in words changed to figures;
- (iii) Penalty – fine is placed before jail term;
- (iv) Part numbering changed to decimal.

The following amendments were made since its enactment:

By the Cluster Munitions Prohibitions Act 2012 (No.11), commenced on 30 April 2012:

- section 14(1)** - insertion to make importation of explosives, ammunition or firearms also subject to the Cluster Munitions Prohibitions Act 2012.

By the Police Powers Amendment Act 2017 (No. 5), commenced on 9 March 2017:

- section 13** - subsection (3) substituted and new subsection (3A) inserted. Word “prescribed” inserted into subsection (4).

By the Miscellaneous (Ministerial Assignment) Amendment Act 2019 (No. 23), commenced on 1 July 2019:

- section 2** - new definition of “owner”, “Service” and “vehicle” inserted.

- New Part 6A** - new Part 6A inserted after section 36.

By the Police Powers Amendment Act 2020, No 4, commenced on 28 January 2020-

- New Section 36BA** a new section 36BA is inserted after section 36B.

*This Act is administered by
the Ministry of Police and Prison Services.*
