FIJI POLICE ACT 2026
(ACT No. 43 of 2026)

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ACT NO. 43 OF 2026



I assent.

RATU N. T. LALABALAVU
President

[12 November 2026]

AN ACT

TO REPEAL THE POLICE ACT 1965, TO ESTABLISH A FRAMEWORK FOR POLICING, TO PROVIDE FOR THE ADMINISTRATION, POWERS, DUTIES AND RESPONSIBILITIES OF THE FIJI POLICE FORCE, TO FORMALISE COMMUNITY POLICING, AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Fiji Police Act 2026.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires—

"arms" means—

(a) a lethal weapon with or without a barrel of any description from which any shot, bullet or other missile can be discharged;

(b) a weapon of any description designed or adapted for the discharge of any noxious liquid or gas, electric charge or other thing dangerous to persons; and

(c) any component of the weapon and any accessory to the weapon designed or adapted to be used with the weapon or to diminish the noise or flash caused by firing the weapon;

"auditing standards" means—

(a) international auditing standards applicable to supreme audit institutions, subject to such modifications as the Auditor-General considers appropriate by notification in the Gazette; or

(b) any other relevant standards that the Auditor-General considers appropriate by notification in the Gazette;

"Auditor-General" means the person appointed as the Auditor-General under section 151(2) of the Constitution or a person appointed to act as the Auditor-General under section 151(3) of the Constitution;

"biographic details" includes a person's name, address and date of birth;

"biometric information", in relation to a person who is a candidate, a member of Police staff or a Police associate means—

(a) a DNA profile derived from a body sample of the person; and

(b) fingerprints and palm prints of the person;

"body sample" means a blood sample or a buccal sample;

"buccal sample" means a sample of epithelial cells from inside the mouth;

"candidate" means a person being considered for recruitment as a member of Police staff or as a Police associate;

"Commissioner" means the Commissioner of Police appointed in accordance with section 129(4) of the Constitution;

"community policing committee" means an organised group within a community, however described—

(a) formed for the primary purpose of protecting or improving the lives of the community; and

(b) that has the capacity or intention to liaise, work, communicate or partner with the Force;

"Constitution" means the Constitution of the Republic of Fiji;

"DNA profile", in relation to—

(a) a candidate, a member of Police staff or a Police associate for the purposes of Part 3, Division 2, Subdivision 1, means information derived from an analysis of a body sample obtained from that person, being information that is clearly identifiable as relating to that person; and

(b) any person for the purposes of an investigation into an offence through the means provided in Part 9, Division 9, means information derived from an analysis of a forensic sample obtained from that person under Part 9, Division 9;

"Force" or "Police" means the Fiji Police Force continued under section 129(1) of the Constitution and section 5;

"Force database" means the information recording system established and maintained by the Force to securely store—

(a) the biometric information of a candidate in accordance with section 24*(b)*;

(b) staff biometric information in accordance with section 31*(b)*;

(c) the identifying particulars of a person in accordance with section 46; and

(d) the record of a forensic procedure and information related to the analysis of a forensic sample in accordance with section 118;

"identifying particulars", in relation to a person, means one or more of the following—

(a) biographic details;

(b) photograph or visual image; or

(c) impressions of fingerprints, palm prints, or footprints;

"informer protected offence" means a prescribed offence for which protection for informers is provided under section 158;

"issuing authority" means a person authorised to issue a warrant under section 48;

"Minister" means the Minister responsible for the Fiji Police Force;

"Police animal" means an animal that—

(a) has completed an animal training course at a facility approved by the Commissioner; and

(b) is used or is likely to be used for Police duties;

"Police animal handler" means a member of Police staff who is undergoing or has successfully completed a course of instruction approved by the Commissioner that qualifies the person to perform the duties of a Police animal handler;

"Police associate" means a person engaged to perform a specified task for the Force under section 20;

"Police consultant" means a person engaged as a Police consultant under section 19;

"Police employee" means a civilian employee of the Force employed under section 15;

"Police officer" means a person appointed as a Police officer under section 13 with the rank prescribed by the Commissioner;

"Police staff" or "a member of Police staff" means—

(a) a Police officer;

(b) a special constable appointed under section 14(2); and

(c) a Police employee;

"prescribe" means to prescribe by—

(a) regulations made by the Minister under this Act if—

(i) a provision states that the Minister may prescribe the thing or matter; or

(ii) a provision does not specify who may prescribe the thing or matter; or

(b) standing orders made under this Act if a provision states that the Commissioner may prescribe the thing or matter;

"repealed Act" means the Police Act 1965, repealed by section 165;

"senior officer" means an officer of and above a rank the Commissioner may prescribe for the purposes of—

(a) administering, witnessing and certifying an oath or affirmation under section 16;

(b) applying for a covert surveillance warrant under section 57;

(c) authorising the placement of a tracking device under section 62;

(d) applying for a covert or forcible entry warrant under section 63; and

(e) constituting or acting as an ad hoc internal tribunal under section 128;

"special constabulary" means the special constabulary continued under section 14(1);

"staff biometric information" means the biometric information of a member of Police staff or a Police associate obtained under section 29;

"standing orders" means the orders the Commissioner may prescribe under this Act;

"Tribunal" means the Fiji Police Force Disciplinary Tribunal established under section 130; and

"visiting officer" means an officer from a neighbouring territory serving in Fiji in response to a request under section 39.

Application

3.—(1) This Act, and the powers of the Fiji Police Force under this Act and any other written law may be exercised throughout Fiji including the—

(a) internal waters of Fiji;

(b) archipelagic waters of Fiji; and

(c) territorial seas of Fiji.

(2) The powers of the Force under this Act and any other written law may extend to the contiguous zone and the exclusive economic zone of Fiji only in accordance with the provisions of the United Nations Convention on the Law of the Sea and any written law in Fiji implementing the Convention.

Act binds State

4. This Act binds the State.

PART 2—CONSTITUTION, FUNCTIONS AND GOVERNANCE OF FORCE

Division 1—Continuation and constitution of Force

Continuation of Force

5. The Fiji Police Force continues in accordance with section 129(1) of the Constitution.

Constitution of Force

6.—(1) The Force consists of the following categories of Police staff—

(a) Police officers, in ranks as prescribed by the Commissioner;

(b) special constables, in ranks as prescribed by the Commissioner; and

(c) Police employees.

(2) In this section, "ranks" means the badges of rank for Police officers and special constables.

Division 2—Functions of Force

Functions of Force

7.—(1) The functions of the Force are to—

(a) maintain law and order;

(b) preserve peace, safety and security for all persons;

(c) protect life and property;

(d) protect the rights of individuals;

(e) prevent and detect crime through intelligence-led policing;

(f) engage and partner with the community;

(g) participate in policing activities outside Fiji in accordance with Part 4, Division 4; and

(h) enforce any written law that the Force is directly charged with enforcing, or any written law that the Minister may prescribe by notice in the Gazette for the Force to enforce.

(2) In the performance of its functions, the Force must—

(a) act in accordance with the Constitution, this Act and the laws of Fiji;

(b) give full effect to the duties and responsibilities of the Force provided under this Act and any other written law of Fiji;

(c) uphold and protect the rights and freedoms provided under the Constitution, this Act, any other written law, and the international treaties that Fiji has ratified or acceded to; and

(d) uphold the rule of law and the principles of natural justice.

Role of Force in state of emergency

8.—(1) The Commissioner must, in a state of emergency declared by the Prime Minister under section 154 of the Constitution, direct the Force to deal effectively with the circumstances that threaten the security and safety of all or a part of Fiji.

(2) The Minister may make regulations to give effect to this section subject to—

(a) section 43 of the Constitution; and

(b) regulations made by the Prime Minister under section 154(1) of the Constitution.

(3) In a state of emergency, the Force remains under the command of the Commissioner.

(4) Subsections (1) and (3) are subject to section 9.

Division 3—Governance of Force

Powers of Minister

9.—(1) The Minister may issue a general policy direction to the Commissioner in accordance with section 129(6) of the Constitution.

(2) The Commissioner must comply with the general policy direction.

Powers and responsibilities of Commissioner

10.—(1) The Commissioner has the powers granted to the Commissioner by the Constitution and this Act.

(2) Subject to section 9 and in accordance with section 129(5) of the Constitution, the Commissioner is responsible for the—

(a) organisation and administration of the Force; and

(b) deployment and control of its operations.

(3) The Commissioner may make standing orders in accordance with section 164.

Delegation of Commissioner's powers

11.—(1) The Commissioner may, by instrument in writing, delegate any of the Commissioner's powers, duties or functions under this Act to the Deputy Commissioner or a Police officer, other than this power of delegation.

(2) The delegation—

(a) must specify the power, duty or function delegated;

(b) may be made subject to any condition or restriction that the Commissioner considers appropriate, including any factor that must be taken into account when the delegation is made;

(c) may be made generally or for any particular case or to any particular area in Fiji;

(d) may be revoked by the Commissioner at any time; and

(e) does not prevent the Commissioner from the exercise of the delegated power, or the performance of the delegated duty or function.

(3) The Deputy Commissioner or a Police officer that has been delegated powers, duties or functions by the Commissioner under this section may, subject to any condition or restriction, exercise the power, or perform the function or duty in the same manner and with the same effect as if the power, function or duty had been conferred on the person directly by this Act.

(4) A member of Police staff that purports to act under a delegation under this section is, in the absence of proof to the contrary, presumed to act in accordance with the terms of the delegation.

PART 3—ENGAGEMENT, PROCESSING AND TRAINING OF POLICE

Division 1—Recruitment of Police staff and others

Subdivision 1—Recruitment and promotion of Police staff

Merit-based recruitment and promotion

12.—(1) The recruitment, appointment, employment and promotion of Police staff must be based on merit with preference to an applicant who is best qualified and suited for the position.

(2) In the determination of the merit of an applicant, consideration must be given to—

(a) the applicant's integrity, emotional maturity, and psychological suitability for policing duties;

(b) the conduct of the applicant;

(c) if applicable, the past performance of the applicant;

(d) the educational or vocational training qualifications of the applicant;

(e) the ability, aptitude, skill, knowledge and experience of the applicant to meet the requirements of the position; and

(f) the physical fitness of the person to perform the duties of the position.

(3) If 2 or more applicants are of equal merit, the Commissioner must take into account the need for the Force to contain officers from diverse backgrounds and to promote gender and ethnic equity.

Recruitment of Police officer

13.—(1) The Commissioner may recruit a person as a Police officer.

(2) The Police officer must, on joining the Force and before taking an oath or making an affirmation under section 16, give an honest answer to any question asked of him or her in relation to—

(a) any previous service in any other organisation; and

(b) whether he or she has at any time been convicted of any criminal offence, other than a conviction that is an expunged conviction under the Criminal Records Act 2026.

Appointment of the special constabulary

14.—(1) The special constabulary as established by the Fiji Police Act 1965 continues in existence under the command of the Commissioner.

(2) The Commissioner may appoint a person as a special constable to augment the Force and assign to the special constable a prescribed rank in one of the following categories—

(a) a general special constable to serve anywhere in Fiji;

(b) a district advisory special constable to serve in rural and maritime areas where there are no existing traditional iTaukei leadership structures; and

(c) a village special constable to serve in villages across rural and maritime areas.

(3) Subject to this Act, the Commissioner may—

(a) as the he or she considers appropriate, appoint, promote, demote, discipline, suspend or terminate the appointment of a special constable;

(b) make standing orders for—

(i) the general governance of special constables in relation to their appointment, training, use of arms, clothing, equipment, property, classification, services, distribution and inspection; and

(ii) preventing neglect, and promoting efficiency and discipline on the part of special constables in the discharge of their duties.

(4) A special constable may be paid from public funds at the prescribed rates.

(5) The Commissioner may authorise a special constable, while on duty, to perform duties or functions or exercise the powers of a Police officer under this Act or any other written law.

(6) The written authorisation must specify a period of time determined by the Commissioner and may be—

(a) general in scope and apply throughout Fiji; or

(b) specific to a person, class, rank, or area in Fiji.

(7) During the period in which the authorisation is valid—

(a) a reference in this Act or any other written law to a Police officer is deemed to include the special constable but only in relation to the duty, function or power specified in the authorisation; and

(b) the special constable, in the performance of that duty or function or in the exercise of the power of a Police officer specified in the authorisation is—

(i) bound by the same responsibilities and limits that apply to a Police officer in that capacity; and

(ii) entitled to the same protections that apply to a Police officer in that capacity.

(8) A duty or function performed, or a power exercised by a special constable authorised under subsection (6) has the same effect as if the duty, function or power had been performed or exercised by a Police officer.

(9) A special constable must, on being appointed and before taking an oath or making an affirmation under section 16, give an honest answer to any question which may be put to him or her in relation to—

(a) the person's previous service in any other organisation; and

(b) whether he or she has at any time been convicted of any criminal offence.

Employment of Police employee

15.—(1) The Commissioner may employ a Police employee to serve in the Force.

(2) The Police employee must be employed—

(a) under a written employment contract; and

(b) subject to terms and conditions determined by the Commissioner and as set out in the employment contract.

(3) The Police employee must, on being employed and before taking an oath or making an affirmation under section 16, give an honest answer to any question asked of him or her in relation to—

(a) the person's previous service in any other organisation; and

(b) whether he or she has at any time been convicted of any criminal offence.

(4) The Commissioner may authorise a Police employee to exercise any specified powers, duties or functions of a Police officer for the purposes of this Act or any other written law.

(5) The written authorisation must specify a period of time determined by the Commissioner and may be—

(a) general in scope and apply throughout Fiji; or

(b) specific to a person, class, rank, or area in Fiji.

(6) During the period in which the authorisation is valid—

(a) a reference in this Act or any other written law to a Police officer is deemed to include the Police employee but only in relation to the duty, function or power specified in the authorisation; and

(b) the Police employee, in performing the duty or function or exercising the power of a Police officer specified in the authorisation is—

(i) bound by the same responsibilities and limits that apply to a Police officer in that capacity; and

(ii) entitled to the same protections that apply to a Police officer in that capacity.

(7) A duty or function performed, or a power exercised by a Police employee authorised under subsection (4) has the same effect as if the duty, function or power had been performed or exercised by a Police officer.

Oath or affirmation

16. On joining the Force, the Police staff must make a declaration of allegiance and secrecy on oath or affirmation, before the Commissioner or senior officer, in the form set out in the Schedule—

(a) a Police officer;

(b) a special constable appointed under section 14(2); and

(c) a Police employee employed under section 15(1).

Subdivision 2—Police animals

Police animals may accompany Police animal handlers

17. Notwithstanding any other written law—

(a) a Police animal under the control of a Police animal handler may enter and be in a place that the Police animal handler may in the course of Police duties lawfully enter or be in; and

(b) the Commissioner or a Police animal handler in charge of a Police animal is not liable in any way by reason only of a Police animal's having entered or been in or on any place under paragraph *(a)*.

Killing or injuring Police animal

18.—(1) A person who intentionally or recklessly kills, maims, wounds, or injures a Police animal without lawful authority or reasonable excuse commits an offence.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $15,000 or imprisonment for a term not exceeding 2 years or both.

Subdivision 3—Engagement of external person

Engagement of Police consultant

19.—(1) The Commissioner may engage a person, by written contract, as a Police consultant to provide a service to the Force for a period of time determined by the Commissioner.

(2) The Commissioner may approve duties and functions for the Police consultant.

(3) A Police consultant is not an agent or representative of the Force and must not hold himself or herself out to be an agent or representative of the Force.

Engagement of Police associate

20.—(1) The Commissioner may engage as a Police associate a person who is not a member of Police staff but—

(a) performs, or may in the future, perform duties with or for the Force, and whose duties may involve the risk of accidentally contaminating a crime scene or any evidence at the crime scene; and

(b) is a professional and has the capacity to assist the Force during the course of an investigation.

(2) In this section, "professional" means—

(a) a health professional as defined in the Medical and Dental Practitioner Act 2010;

(b) a welfare officer as defined in the Juveniles Act 1973;

(c) a teacher who is registered under the Fiji Teachers Registration Act 2008;

(d) a legal practitioner as defined in the Legal Practitioners Act 2009; or

(e) a person belonging to a profession prescribed by the Commissioner.

Division 2—Engagement requirements and training

Subdivision 1—Requirements for information to be provided

Provision of personal details by candidate

21.—(1) The Commissioner may require a candidate to—

(a) provide his or her identification and biographic detail;

(b) provide evidence of any qualification or experience required for the position;

(c) take a test approved by the Commissioner, which assesses physical and mental fitness;

(d) submit to a psychological evaluation;

(e) provide biometric information under section 22; or

(f) provide medical or any other report relevant in the determination of whether the candidate is capable of performing the required duties.

(2) If the Commissioner requires a candidate to perform an act under subsection (1) or section 22, the Commissioner must notify the candidate of the requirement as soon as practicable.

(3) If the candidate is unwilling to perform the act required, the Force must not consider the candidate for recruitment.

Requirement for body samples and biometric information

22. The Commissioner may require a candidate to provide a body sample suitable for establishing a DNA profile of the candidate for the purposes of section 23.

Use of candidate biometric information restricted

23. Biometric information relating to a candidate must be used only for—

(a) verifying that the candidate is not a user of an illicit drug listed under Schedule 1 to the Illicit Drugs Control Act 2004; or

(b) matching the biometric information against other information held by the Police for the purpose of—

(i) determining whether the candidate has been convicted of an offence; or

(ii) if, when matched against other information held by the Police, it indicates that the candidate may have been involved in the commission of an offence—

(A) investigating the offence; and

(B) if relevant, prosecuting a person charged with committing the offence; or

(iii) if the candidate later becomes a member of Police staff or a Police associate, eliminating him or her from being considered a suspect in the investigation of a crime.

Storage of profile and destruction of samples

24. The Commissioner must ensure that—

(a) a DNA profile is established from the body sample obtained under section 22;

(b) the biometric information relating to a candidate is stored in the Force database; and

(c) except in the circumstances described in section 23*(b)*(ii), any body sample obtained under section 22 is destroyed promptly.

Candidate biometric information to be deleted or destroyed if person not recruited

25.—(1) This section does not apply in the circumstances described in section 23*(b)*(ii).

(2) If the Commissioner decides not to recruit a candidate, the Commissioner must ensure that biometric information held by the Police that relates to the candidate is promptly—

(a) deleted permanently from the Force database; or

(b) for biometric information held in hard-copy form, destroyed.

(3) The Commissioner must ensure that, promptly after the deletion or destruction of biometric information under this section, the person to whom the biometric information relates, or his or her personal representative, is given written notice of its deletion or destruction.

Subdivision 2—Training and education

Training and education

26.—(1) The Commissioner must prescribe, for the efficient and proper exercise and performance of the powers, duties, and function of the Force, the following training programmes for Police staff—

(a) a recruitment training course; and

(b) a continuing education course.

(2) A member of Police staff must—

(a) successfully complete the training course before being recruited; and

(b) undertake the continuing education course as prescribed by the Commissioner.

(3) Each course must contain training in at least—

(a) the rights of every person as guaranteed under the Constitution and international treaties that Fiji has ratified or acceded to, in the context of law enforcement;

(b) gender sensitisation, addressing gender-based violence and the proper handling and treatment of cases involving women, including the effective implementation of the 'no-drop' policy;

(c) effective engagement of and support for local communities and marginalised and minority groups;

(d) the use of reasonable and necessary force, negotiation and de-escalation techniques in law enforcement;

(e) ethics, integrity and the code of conduct of the Force; and

(f) the powers, duties and responsibilities of the Police and the limits to and proper exercise of each.

(4) The course must as far as is practicable, be conducted in collaboration with training partners with expertise in the course content and experience in the context of Fiji.

(5) The Commissioner must seek to include, as the training partners, local universities, civil society and non-governmental organisations and human rights and faith-based institutions.

(6) The Commissioner may confer certificates or awards to a person who has successfully completed the recruitment training or continuing education course under this section.

PART 4—SERVICE

Division 1—Duties and service generally

General duties of Police staff

27.—(1) A member of Police staff must perform the duties, and may exercise the powers, imposed or conferred on the member by this Act or any other written law.

(2) A member of Police staff must obey all lawful directions received from an officer of a higher rank in the Force in relation to the performance of his or her duty or in the exercise of his or her powers.

(3) A Police officer and a special constable are deemed to be on duty at all times and may at any time be detailed for duty in any part of Fiji or any other place in accordance with this Act.

(4) A Police officer and special constable must promptly—

(a) obey and execute any order or warrant lawfully issued to him or her by an issuing authority;

(b) collect and communicate intelligence affecting the public peace;

(c) prevent the commission of any offence and public nuisance;

(d) detect and bring an offender to justice; and

(e) apprehend any person whom he or she is legally authorised to apprehend and for whose apprehension sufficient ground exists.

Division 2—Mandatory testing

Purpose and relationship with Part 5, Division 9

28.—(1) The purpose of this Division is to enable the Commissioner to—

(a) determine if a member of Police staff or a Police associate has used an illicit drug listed in Schedule 1 to the Illicit Drugs Control Act 2004; and

(b) eliminate a member of Police staff or a Police associate from being considered a suspect in the investigation of a crime.

(2) The Commissioner may opt to forego the use of this Division and instead investigate a member of Police staff or a Police associate under the Illicit Drugs Control Act 2004 or any other written law using Part 5, Division 9.

Provision of body sample and biometric information by Police staff

29.—(1) Subject to subsection (3), the Commissioner may direct a member of Police staff or a Police associate to provide a body sample if the Commissioner has reasonable grounds to suspect that a member of Police staff or a Police associate has used an illicit drug as listed in Schedule 1 to the Illicit Drugs Control Act 2004.

(2) The Commissioner may request a member of Police staff or a Police associate to provide a body sample or biometric information that the Commissioner thinks appropriate to eliminate a member of Police staff or a Police associate from being considered a suspect in the investigation of a crime.

(3) The Commissioner may only direct a member of Police staff or Police associate to provide a body sample or biometric information that is relevant to the purpose of the direction.

Restrictions on the use of staff biometric information

30.—(1) Staff biometric information provided under section 29(1) is not admissible as evidence in any criminal proceedings against the person who provided the information, and must be used only for determining whether the person has used an illicit drug listed under Schedule 1 to the Illicit Drugs Control Act 2004 for the purpose of this section.

(2) The use of an illicit drug may be determined by an analysis of the biometric information conducted at a laboratory or facility established under section 114 or approved under section 115.

(3) If the analysis determines that the person has used the illicit drug, he or she is deemed to have breached the code of conduct and Part 7 applies.

(4) Subsection (1) applies even after the person ceases to be a member of Police staff or a Police associate.

Storage of profile and destruction of sample

31. The Commissioner must ensure that—

(a) a DNA profile is established from the body sample obtained under section 29;

(b) the staff biometric information is stored in the Force database; and

(c) every body sample obtained under section 29 is destroyed promptly.

Destruction or deletion of staff biometric information

32.—(1) If a person ceases to be a member of Police staff or a Police associate, the Commissioner must ensure that all staff biometric information collected by the Police under section 29 is—

(a) deleted permanently from the Force database; and

(b) destroyed if the information is held in hard-copy form.

(2) The information must be deleted or destroyed no later than 12 months after the person ceases to be a member of Police staff or a Police associate.

(3) The Commissioner must ensure that, promptly after the deletion or destruction of information under this section and section 31, the person to whom the information relates, or his or her personal representative, is given written notice of its deletion or destruction.

Division 3—Staff rules of service and well-being

Restriction on other employment or political activities

33. A member of Police staff must not—

(a) engage in any employment or hold any office unless provided under this Act;

(b) take an active part in any political organisation or electoral campaign; or

(c) engage in any activity that compromises his or her ability to discharge of his or her duties under this Act.

Extension of service in times of war

34.—(1) The Commissioner may extend the appointment or employment of a member of Police staff if the member of Police staff's appointment is due to expire during a state of war, state of emergency, or a period of insurrection or hostilities.

(2) The extension may only be for a period not exceeding 6 months.

Counselling for Police staff

35. The Commissioner must employ or engage a qualified and trained counsellor to provide counselling services to Police staff.

Division 4—Service outside Fiji

Definition of "neighbouring territory"

36.—(1) Subject to subsection (2), in this Division the term "neighbouring territory" means a territory which the Minister may, by notice in the Gazette, declare to be a neighbouring territory for the purposes of this Division.

(2) The notice must not be published unless the Minister is satisfied that satisfactory arrangements have been or will be made to include in the law of that territory provisions reciprocal to those of this Division.

Power to order service outside Fiji

37. The Commissioner may, at the request of the government of a neighbouring territory, and with the agreement of the Minister, order a number of Police officers as the Commissioner thinks appropriate to proceed to the territory for service.

Effect of punishment of Police officer in neighbouring territory

38. A Police officer punished for any offence, whether against discipline or otherwise, committed while the officer was serving in a neighbouring territory is deemed to have been punished in Fiji for a similar offence committed within Fiji if the Police officer was punished—

(a) under the law of the neighbouring territory; or

(b) under any of the provisions of this Act applied by the law of the territory to the Police officer while serving in that territory.

Request for service from other police force

39. The Commissioner may request assistance during a temporary emergency from the police force of a neighbouring territory.

Provisions as to officers of neighbouring territory serving in Fiji

40.—(1) This section applies to an officer from a neighbouring territory serving in Fiji in response to a request under section 39.

(2) Subject to subsection (3), if 2 or more visiting officers are present in Fiji, a visiting officer is under the operational command of the superior officer of the visiting officers.

(3) A visiting officer is subject to the command of the Commissioner.

(4) A visiting officer has and may exercise the powers, and is liable to perform the duties, of a Police officer of equivalent rank in the Force, and is for those purposes deemed to be a Police officer of the Force.

(5) A written law that affects the discipline, punishment or terms and conditions of service of a visiting officer while serving in the visiting officer's own jurisdiction applies, so far as circumstances permit, in Fiji as if that written law were part of the general law of Fiji.

(6) Notwithstanding subsection (5)—

(a) the foreign law is not to be interpreted in its application within Fiji as conferring power on a Police officer of the Force to punish a visiting officer for an offence against discipline; and

(b) if the foreign law confers on a court or magistrate of the neighbouring territory jurisdiction to try and punish an offence, the jurisdiction may be exercised by a court or magistrate possessing comparable jurisdiction within Fiji.

(7) A contract of service between a visiting officer and the government of the neighbouring territory may be enforced in Fiji in the same manner and with the same effect as if it were made between the visiting officer and the Government of the Republic of Fiji.

PART 5—INVESTIGATIVE AND ENFORCEMENT POWERS

Division 1—Preliminary provisions

Interpretation for Part 5

41. In this Part—

"access information", for a digital device, means information necessary for a person to access or read device information from the device and includes a user identification or username, passcode or password;

"conveyance" includes conveyance in an aircraft, a vehicle or a vessel;

"covert operation offence" means a prescribed offence for which the following warrants may be issued—

(a) a covert surveillance warrant under section 58; and

(b) a covert or forcible entry warrant under section 64;

"crime scene" has the meaning given in section 70;

"crime scene powers" means the powers a Police officer may exercise over a crime scene under Division 7, Subdivision 4;

"crime scene threshold offence" means—

(a) an indictable offence that carries a penalty threshold prescribed under regulations; or

(b) an offence involving deprivation of liberty;

"device information", from a digital device, means—

(a) information stored on the device; or

(b) information accessed, communicated or distributed by using the device, including by using an application on the device;

"digital device"—

(a) means a device on which information may be stored or accessed electronically; and

(b) includes a computer, memory stick, portable hard drive, smartphone or tablet computer;

"place" includes any land, building, premises, or vehicle;

"post-search approval order" means an order made under section 54 to approve an urgent search conducted under Part 5, Division 4, Subdivision 3;

"relevant evidence", in relation to an offence, means anything that would be admissible in evidence at a trial for the offence;

"responsible officer" means a Police officer who—

(a) establishes or has control of a crime scene under section 72;

(b) has powers and responsibilities in relation to the crime scene under Division 7, Subdivision 4;

"stop departure offence" means a prescribed offence for which the Commissioner may issue a stop departure order under this Part, Division 6;

"urgent search offence" means a prescribed offence for which an urgent search warrant may be issued under this Part, Division 4, Subdivision 3; and

"urgent search warrant" means a warrant issued under this Part, Division 4, Subdivision 3.

Use of force

42.—(1) A Police officer may use reasonable and necessary force against individuals confronted by a Police officer exercising or attempting to exercise a power under this Act or any other written law.

(2) A Police officer may also use reasonable and necessary force to prevent a person from escaping from lawful custody.

(3) The force used must—

(a) be proportionate to the seriousness of the circumstances in which it is used;

(b) be proportionate to the legitimate objective to be achieved;

(c) as far as possible, only be used if other non-violent means are ineffective;

(d) not be likely to cause death or grievous bodily harm to a person unless it is necessary to prevent death or serious injury to the officer or any other person.

(4) In determining what force is reasonable and necessary in a particular circumstance, regard must be had to—

(a) the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) the United Nations International Covenant on Civil and Political Rights;

(c) the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and

(d) international treaties or instruments which Fiji has ratified or acceded to.

Reasonable care for seized property

43. The Police must take reasonable care to prevent the loss of or damage to, any lawfully seized property while it is in the possession of the Police.

Division 2—Identification of Persons

Identifying particulars of person in custody

44.—(1) The purpose of this section is to enable the Force to obtain information that may be used by the Force for a lawful purpose.

(2) For the purpose of this section, a Police officer may take the identifying particulars of a person who is in the lawful custody of the Police if that person is detained in relation to an offence and is at—

(a) a Police station; or

(b) any other place being used for Police purposes.

(3) The Police officer—

(a) must take the person's identifying particulars in a manner that is reasonable in the circumstances; and

(b) subject to section 42, may use reasonable and necessary force to obtain the person's identifying particulars.

(4) A person who, after being cautioned, fails to comply with a direction of a Police officer exercising his or her powers under this section commits an offence and is liable on conviction to a fine not exceeding $5,000 or imprisonment for a term not exceeding 6 months or both.

Identifying particulars for summons

45.—(1) The purpose of this section is to enable the Force to obtain information that may be used by the Force for any lawful purpose.

(2) For the purpose of this section, a Police officer who has reasonable grounds to suspect a person of committing an offence and who intends to bring proceedings against the person in respect of that offence by way of a summons, may detain that person at any reasonable place—

(a) in order to take the person's identifying particulars; and

(b) only for the period necessary to take the person's identifying particulars.

(3) A Police officer—

(a) must take the person's identifying particulars in a manner that is reasonable in the circumstances; and

(b) subject to section 42, may use reasonable and necessary force to secure the person's identifying particulars.

(4) A person who, after being cautioned, without reasonable excuse, fails to comply with a direction of a Police officer exercising his or her powers under this section commits an offence and is liable on conviction to a fine not exceeding $5,000 or imprisonment for a term not exceeding 6 months or both.

Storage on database of identifying particulars

46.—(1) The identifying particulars of a person that are obtained under section 44 or 45 must be stored on the Force database.

(2) A photograph or visual image of a person and an impression of a person's fingerprints, palm prints, or footprints, that are obtained under sections 44 or 45 must be destroyed or deleted by the Police as soon as practicable after—

(a) a decision is made not to commence criminal prosecution against the person in respect of the offence for which the particulars were taken;

(b) a criminal prosecution is withdrawn by the prosecuting authority; or

(c) the criminal prosecution that is commenced against the person in respect of the offence for which the particulars were taken are completed with an outcome that is not an outcome under subsection (3) that authorises continued storage.

(3) An outcome that authorises continued storage is where—

(a) the person admits to, and completes a programme of diversion (being a programme conducted by the Police) for the offence for which the particulars were taken;

(b) the person is convicted of the offence for which the particulars were taken; or

(c) the person is discharged under section 44 of the Sentencing and Penalties Act 2009 in respect of the offence for which the particulars were taken.

(4) The Police must take reasonable care to ensure that the identifying particulars obtained under sections 44 or 45 are safely and securely entered, recorded and stored and may only be accessed for a lawful purpose and by a person who is lawfully authorised to access the particulars.

Division 3—Power to arrest

Power to arrest without warrant

47.—(1) A Police officer may, without a warrant, arrest a person—

(a) who is committing an offence;

(b) who the officer suspects on reasonable grounds is about to commit an offence; or

(c) who the officer suspects on reasonable grounds is committing an offence.

(2) If a Police officer has reasonable grounds for suspecting that an offence has been committed, the officer may arrest without a warrant anyone whom he or she has reasonable grounds to suspect of having committed the offence.

(3) If an offence has been committed, a Police officer may arrest, without a warrant a person—

(a) who committed the offence;

(b) whom the officer suspects on reasonable grounds of having committed the offence.

(4) The power of summary arrest conferred by subsections (1), (2) or (3) is exercisable only if the Police officer has reasonable grounds for believing that for any of the following reasons it is necessary to arrest the person in question—

(a) to enable the name and address of the person in question to be ascertained in the case where the Police officer does not know, and cannot readily ascertain, or has reasonable grounds to doubt whether the name and address given by the person are the person's real name and address;

(b) to prevent the person in question from—

(i) causing physical injury to himself or any other person;

(ii) suffering physical injury;

(iii) causing loss of or damage to property; or

(iv) causing an unlawful obstruction of a public road;

(c) to protect a child or other vulnerable person from the person in question;

(d) to allow the prompt and effective investigation of the offence or of the conduct of the person in question; and

(e) to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.

Division 4—Search and seizure

Subdivision 1—Preliminary provision

Issuing authority

48. The following persons may issue a search warrant—

(a) a magistrate, for a general search warrant under this Division, Subdivision 2 or an urgent search warrant under this Division, Subdivision 3; and

(b) a Judge of the High Court of Fiji, for a covert surveillance warrant under Division 5, Subdivision 2 and a covert or forcible entry warrant under Division 5, Subdivision 3.

Subdivision 2—General Search Warrants

General search warrants

49.—(1) A Police officer may apply in the prescribed form and manner to an issuing authority for a search warrant.

(2) If the issuing authority is satisfied that there are reasonable grounds for believing that—

(a) an offence has been committed;

(b) there is material on the premises mentioned in subsection (3) which is likely to be of substantial value, whether by itself or together with other material, to the investigation of the offence;

(c) the material is likely to be relevant evidence;

(d) it does not consist of or include items subject to legal privilege, or which are similarly protected under law; and

(e) any of the conditions specified in subsection (8) applies,

the issuing authority may issue a warrant authorising a Police officer to enter and search the premises in relation to each premises specified in the application.

(3) The premises referred to in subsection (2)*(b)* are—

(a) one or more premises specified in the application, in which case the application is for a "specific premises warrant"; or

(b) any premises occupied or controlled by a person specified in the application, including such premises as specified, in which case the application is for an "all premises warrant".

(4) If the application is for an all premises warrant, the issuing authority must also be satisfied that—

(a) because of the particulars of the offence referred to in subsection (2)*(a)*, there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in paragraph *(b)* of that subsection; and

(b) it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.

(5) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the issuing authority is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which he or she issues the warrant.

(6) A Police officer may seize and retain anything for which a search has been authorised under subsection (2).

(7) The conditions mentioned in subsection (2)*(e)* are that—

(a) it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;

(c) entry to the premises will not be granted unless a warrant is produced; or

(d) the purpose of a search may be frustrated or seriously prejudiced unless a Police officer arriving at the premises can secure immediate entry to the premises.

(8) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.

Execution of warrant

50.—(1) A warrant to enter and search premises may be executed by a Police officer.

(2) The warrant may authorise any other person to accompany a Police officer who is executing the warrant.

(3) The authorised person has the same power as the Police officer whom he or she accompanies in respect of the—

(a) execution of the warrant, and

(b) seizure of anything to which the warrant relates,

provided that he or she exercises those powers only in the company and under the supervision of the Police officer.

(4) Entry and search under a warrant must be within 3 months from the date of its issue.

(5) Entry and search under a warrant must be at a reasonable hour unless it appears to the Police officer executing it that the purpose of a search may be frustrated on an entry at a reasonable time.

(6) Where the occupier of premises which are to be entered and searched is present at the time when a Police officer seeks to execute a warrant to enter and search them, the Police officer must—

(a) identify himself or herself to the occupier and, if not in uniform, produce to the occupier with the identity document issued under section 153;

(b) produce the warrant to the occupier; and

(c) provide the occupier with a copy of the warrant.

(7) Where—

(a) the occupier is not present at the time when a Police officer seeks to execute such a warrant; and

(b) some other person who appears to the Police officer to be in charge of the premises is present,

subsection (6) has effect as if any reference to the occupier were a reference to that other person.

(8) If there is no person who appears to the Police officer to be in charge of the premises, the officer must leave a copy of the warrant in a prominent place on the premises.

(9) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(10) A Police officer executing a warrant must make an endorsement on the warrant stating whether—

(a) the officer found the article or a person sought; and

(b) any articles were seized, other than articles which were sought and, unless the warrant is a warrant specifying one set of premises only, the officer must do so separately in respect of each set of premises entered and searched, which the officer must in each case state in the endorsement.

(11) A warrant must be returned to the issuing authority—

(a) when it has been executed; or

(b) upon the expiry of the warrant in the case of a specific premises warrant which has not been executed, or an all premises warrant, or any warrant authorising multiple entries.

(12) A warrant which is returned must be retained for 12 months from its return.

(13) If during the period for which a warrant is to be retained the occupier of premises to which it relates asks to inspect it, he or she must be allowed to do so.

Subdivision 3—Urgent searches

Application of this Subdivision

51. This Subdivision applies only in relation to a prescribed urgent search offence.

Urgent search to prevent loss of evidence

52.—(1) This section applies if a Police officer reasonably suspects—

(a) an item at or about a place, or in the possession of a person at or about a place is evidence of the commission of an urgent search offence; and

(b) the evidence may be concealed or destroyed unless the place is immediately entered and searched.

(2) This section also applies if a Police officer reasonably suspects an urgent search offence has been, is being, or may be committed in, on or in relation to a conveyance and involves the safety of the conveyance or anyone who may be in or on it.

(3) A Police officer may enter the place or conveyance and perform a search at the place or conveyance as if they were empowered to do so under a search warrant issued under Subdivision 2 of this Division.

(4) The Police officer may use such force as is reasonable and necessary in the circumstances, but must not—

(a) cause structural damage to a building; or

(b) damage a conveyance or any container found in or on the conveyance by forcing open a part of the conveyance or container unless—

(i) the person apparently in charge of the conveyance has first been given a reasonable opportunity to open that part or container; or

(ii) it is not possible to give that person the opportunity.

Post-search approval order

53.—(1) As soon as reasonably practicable after exercising powers under section 52(3) but within the prescribed period, the Police officer must apply to a magistrate for a post-search approval order.

(2) The application must—

(a) be in the prescribed form and manner;

(b) state the grounds on which the order is sought; and

(c) be duly sworn by the Police officer.

(3) The applicant does not need to be present at the consideration of the application unless requested by the magistrate.

(4) The magistrate may refuse to consider the application until the Police officer provides the magistrate with all relevant information relating to the application in the manner required by the magistrate.

Issuance of post-search approval order

54.—(1) The magistrate may make a post-search approval order only if satisfied that—

(a) in the circumstances existing before the search was conducted—

(i) the Police officer had a reasonable suspicion for exercising the powers; and

(ii) there was a reasonable likelihood that the evidence would be concealed, destroyed, or may have caused injury to a person if delay occurred;

(b) it is likely that the magistrate would have issued a general search warrant under section 49 if the circumstances listed in paragraph *(a)*(ii) had not existed or time had permitted; or

(c) having regard to the nature of the evidence found during the search, it is in the public interest to make the order.

(2) If a post-search approval order is not made within the prescribed period or the magistrate refuses to make a post-search approval order, the evidence gathered under section 52 is inadmissible.

Appeal

55.—(1) If a magistrate refuses to make a post-search approval order, the Commissioner may appeal against the order to the High Court within 28 days after the magistrate's refusal.

(2) If the Commissioner appeals, the Commissioner may retain the item seized until the appeal is decided.

Division 5—Covert operations

Subdivision 1—Preliminary provision

Application of this Division

56. This Division applies only to a covert operation offence.

Subdivision 2—Covert Surveillance Warrants

Application for covert surveillance warrants

57.—(1) A senior officer may apply to the issuing authority for a covert surveillance warrant to authorise the covert monitoring and recording, by any means, of any conduct and communication, including telecommunication, of a person.

(2) The application must state that the senior officer has reasonable grounds to suspect that a person has committed, is committing or is about to commit a covert operation offence.

(3) If a written application under subsection (1) is not reasonably practicable in the circumstances, an application may be made orally, including by telephone.

(4) The application must also state—

(a) the facts relied upon to show reasonable grounds for suspicion or belief;

(b) the manner by which it is proposed to undertake the monitoring;

(c) the name or names of the person or persons to be monitored, if known;

(d) the place at which to monitor the person;

(e) the identity of any person who may be required by the court to provide assistance for the purpose of giving effect to the warrant;

(f) the requested duration of the warrant; and

(g) where the application is made orally, the circumstances said to render a written application not reasonably practicable.

Issue and renewal of covert surveillance warrant

58.—(1) The issuing authority may issue the warrant if satisfied that there are reasonable grounds to suspect that a person has committed, is committing or is about to commit a covert operation offence.

(2) The covert surveillance warrant may authorise a Police officer to—

(a) overtly or covertly enter or, in the case of a renewed warrant, re-enter any place specified in the warrant, by force if necessary, for the purpose of executing the warrant; and

(b) in the case of a renewed warrant, continue monitoring and recording pursuant to the original warrant subject to any variation specified in accordance with section 60*(g)*.

(3) A warrant issued under this Subdivision may be renewed by further application.

Considerations for issuing authority

59. In determining whether a warrant should be granted under this Subdivision, the issuing authority must have regard to the following—

(a) the nature and gravity of the offence in respect of which the warrant is sought;

(b) the extent to which the privacy of any person is likely to be affected;

(c) alternative means of obtaining the information or evidence sought and the extent to which employing these means could prejudice the investigation, through delay or any other reason;

(d) the extent to which information that may be obtained is likely to assist the investigation of the offence;

(e) the evidentiary value of any information sought to be obtained;

(f) any previous warrant sought or issued in connection with the same offence; or

(g) in the case of an oral application, the circumstances that render a written application not reasonably practicable.

Form of warrant

60. A warrant issued under this Subdivision must—

(a) specify the manner by which monitoring is authorised;

(b) specify the name of any person or persons who may be monitored;

(c) specify the place or places at which monitoring is authorised;

(d) specify any condition subject to which premises may be entered pursuant to the warrant;

(e) specify any person required to provide assistance for the purpose of giving effect to the warrant and order that person to provide such assistance;

(f) specify the duration of the warrant;

(g) in the case of a renewed warrant, specify any variation to the authority conferred by the previous warrant; and

(h) authorise and require the retrieval of the monitoring and recording device.

Duration, cancellation and revocation of warrant

61.—(1) A warrant issued pursuant to an oral application is valid for 48 hours.

(2) If the Commissioner is satisfied that the grounds upon which a warrant was issued no longer exist, the Commissioner must, if the warrant is still in force, cancel the warrant in writing.

(3) The issuing authority may revoke a warrant issued under this Subdivision that is in force.

Subdivision 3—Tracking

Authorisation of tracking

62.—(1) A senior officer may authorise the placement of a tracking device in or on any craft, vehicle or goods and may subsequently service or retrieve that device.

(2) The senior officer may only make the authorisation if he or she suspects or believes on reasonable grounds that it is expeditious for the investigation of a covert operation offence.

Application for covert or forcible entry warrant

63.—(1) If placement, service or retrieval of a tracking device requires covert or forcible entry onto or into any premises, the senior officer must apply in writing to the issuing authority for a warrant.

(2) If the circumstances are such that a written application is not reasonably practicable, an application may be made orally, including by telephone.

(3) The application must state—

(a) the facts relied upon to show reasonable grounds for the suspicion or belief referred to in subsection (1);

(b) the manner by which it is proposed to undertake the tracking;

(c) the craft, vehicle or goods to be tracked;

(d) the requested duration of the warrant; and

(e) where the application is oral, the circumstances said to render a written application not reasonably practicable.

(4) Mere external placement of a tracking device upon any craft, vehicle or goods does not constitute entry requiring a warrant.

Issue and renewal of covert or forcible entry warrant

64.—(1) Upon application pursuant to this Subdivision, the issuing authority may, if satisfied that there are reasonable grounds to believe that a tracking device will yield information or evidence relating to the commission of an offence against this Act, issue a warrant authorising covert or forcible entry, or both covert and forcible entry, for the purpose of placing, servicing and retrieving the device.

(2) A warrant issued under this section may be renewed by further application.

(3) A renewed warrant authorises—

(a) covert or forcible entry or both covert and forcible entry for the purpose of placing, servicing and retrieving a tracking device; and

(b) the continued use of any tracking device pursuant to the original warrant subject to any variation specified in accordance with section 66*(f)*.

Considerations for issuing authority

65. In determining whether a warrant should be granted under this Subdivision, the issuing authority must have regard to—

(a) the nature and gravity of the offence in respect of which the warrant is sought;

(b) alternative means of obtaining the information or evidence sought, the reliability of those alternative means and the resources required to employ them;

(c) the extent to which information that may be obtained is likely to assist the investigation of the offence;

(d) the evidentiary value of any information sought to be obtained;

(e) any previous warrant sought or issued in connection with the same offence; and

(f) in the case of an oral application, the circumstances said to render a written application not reasonably practicable.

Form of warrant

66. A warrant issued under this Subdivision must—

(a) specify the manner by which tracking is authorised;

(b) specify the craft, vehicle or goods that may be tracked;

(c) specify the premises, vehicle or craft that may be entered pursuant to the warrant;

(d) specify any conditions subject to which premises, vehicle, craft or goods may be entered pursuant to the warrant;

(e) specify the duration of the warrant;

(f) in the case of a renewed warrant, specify any variation to the authority conferred by the previous warrant; and

(g) authorise and require the retrieval of the tracking device.

Duration, cancellation and revocation of warrant

67.—(1) A warrant issued pursuant to an oral application is valid for 48 hours.

(2) If the Commissioner is satisfied that the grounds upon which a warrant was issued have ceased to exist, the Commissioner must, if the warrant is still in force, cancel the warrant by instrument in writing.

(3) A warrant issued under this section and still in force may be revoked by the issuing authority.

Division 6—Stop departure orders

Application of this Division

68. This Division applies only to a stop departure offence.

Issuance of stop departure orders

69.—(1) If a person is being investigated by the Police for a stop departure offence, a Police officer may apply to the court for a stop departure order to prohibit the person from leaving the jurisdiction of the Republic of Fiji.

(2) The order must specify the period in which the person is prohibited from leaving the jurisdiction of the Republic of Fiji.

(3) Where an order is made under subsection (1), the Commissioner must notify—

(a) the person in writing of the prohibition by serving the order on the person at his or her last known residential address within 24 hours of the issuance of the order; and

(b) the Director of Immigration in writing of the order.

(4) The Director of Immigration must enforce the order.

Division 7—Crime scene

Subdivision 1—Preliminary provision

Definition of "crime scene"

70. In this Division, a place is considered a crime scene if—

(a) either of the following apply—

(i) a crime scene threshold offence was committed at the place; or

(ii) there may be evidence at the place, of significant probative value, of the commission of a crime scene threshold offence at any other place; and

(b) it is necessary to protect the place for the time reasonably necessary to search for and gather evidence of the commission of the crime scene threshold offence.

Subdivision 2—Establishing a crime scene

Access to crime scenes

71.—(1) It is lawful for a Police officer to enter a place—

(a) to reach any other place that the Police officer reasonably suspects is a crime scene; and

(b) that the Police officer reasonably suspects is a crime scene and remains in the place for the time reasonably necessary to determine whether or not to establish a crime scene.

(2) In determining what is a reasonable time for subsection (1)*(b)*, the Police officer must consider the particular circumstances including—

(a) the nature of any information obtained or any observation made that suggests the place is a crime scene;

(b) visible evidence that will help decide whether it is a crime scene; and

(c) any preliminary inspection of the place.

Establishment of crime scene

72.—(1) If a Police officer enters or is lawfully at a place, and determines that the place is a crime scene, the Police officer may establish the place as a crime scene and exercise crime scene powers at the place determined.

(2) If any other Police officer assumes control of the crime scene, that Police officer becomes the responsible officer instead of the other officer.

(3) The responsible officer in establishing the crime scene may give notice that the place is a crime scene.

Responsibility after establishing crime scene

73.—(1) A responsible officer must, as soon as reasonably practicable after he or she establishes the crime scene, apply to a judge or a magistrate for a crime scene order under Subdivision 3.

(2) Subsection (1) does not apply if the place is a public place.

(3) If the place is a public place only while it is ordinarily open to the public and the occupier of the place requires a Police officer at the place to leave the place, the Police officer may apply under Subdivision 3 for a crime scene order.

(4) The application must be made to a judge for a crime scene order if it is intended to do something that may cause structural damage to a building.

(5) Subsection (4) applies whether or not a magistrate has issued a crime scene order for the place.

(6) If a judge or magistrate refuses to issue a crime scene order for the place, the place is not to be considered as a crime scene.

Determination of limits of crime scene

74. The responsible officer at a crime scene must—

(a) identify what is the crime scene;

(b) decide the boundaries necessary to protect the crime scene; and

(c) mark the limits of the crime scene in a way that sufficiently identifies it to the public as a crime scene.

Restriction of access to crime scene

75.—(1) The responsible officer must immediately take the steps the officer considers to be reasonably necessary to protect anything at the crime scene from being damaged, interfered with or destroyed, including for example, steps to—

(a) ensure that people, including Police officers, whose presence at the crime scene is not essential do not enter the crime scene;

(b) prevent unnecessary movement inside the boundaries of the crime scene; and

(c) establish a safe walking area in the crime scene for reducing the risk of damage to any evidence that may be on the place.

(2) A person, other than the responsible officer, must not enter a crime scene unless the—

(a) person has a special reason, associated with the investigation, for entering the crime scene;

(b) person is a Police officer or Police associate who is asked to enter the crime scene by the responsible officer or an investigating Police officer;

(c) presence of the person is necessary to preserve life or property at a crime scene; or

(d) person is authorised to enter by the responsible officer.

(3) For subsection (2)*(d)*, the responsible officer may authorise the entry subject to stated requirements.

(4) The responsible officer must ensure that a record is made of the—

(a) name of each person who is present when the crime scene is established;

(b) name of each person who enters it after it is established;

(c) time each person entered the place after it is established; and

(d) purpose of the entry.

Preservation of evidence at crime scene

76.—(1) The responsible officer at a crime scene must ensure that any thing in the crime scene is not unnecessarily interfered with, removed, damaged, or destroyed until all necessary forensic and technical examinations are finished.

(2) The responsible officer may touch or move a thing at the crime scene if there is a possibility that the thing could be damaged, interfered with or destroyed if it is not moved.

Subdivision 3—Crime Scene Orders

Application for crime scene order

77.—(1) A Police officer may apply to a judge or a magistrate for a crime scene order to establish a crime scene at a place.

(2) The application must be sworn and state the grounds on which it is sought.

(3) The occupier of the place must, if reasonably practicable, be issued the notice of the making of the application.

(4) Subsection (3) does not apply if the Police officer reasonably believes that the issuance of the notice would frustrate or hinder the investigation of the offence to which the application relates.

(5) If present when the application is made, the occupier may make reasonable submissions to the judge or magistrate and must not unduly delay the consideration of the application.

(6) The Judge or magistrate may refuse to consider the application until the Police officer provides any information the judge or magistrate may require.

Consideration of application and issue of crime scene order

78.—(1) A judge or magistrate must have regard to the following before issuing a crime scene order—

(a) the nature and seriousness of the suspected offence;

(b) the likely extent of interference to be caused to the occupier of the place;

(c) the time for which it is reasonable to maintain a crime scene; and

(d) any submissions made by the occupier.

(2) The judge or magistrate may issue a crime scene order if reasonably satisfied that the place is a crime scene.

(3) If, before the application is considered, the place ceases to be a crime scene, the judge or magistrate may issue a post crime scene order that has effect only for the time the place was a crime scene.

Requirements of crime scene orders

79.—(1) A crime scene order must state—

(a) that a stated Police officer may establish a crime scene at the place and exercise crime scene powers at the place; and

(b) the day, not more than 7 days after the order is issued, the order ends, unless extended under section 80(2).

(2) If the issuer is a judge, the order must state whether or not a Police officer may, under the order, do something that may cause structural damage to a building.

Duration, extension and review of crime scene order

80.—(1) A crime scene order stops having effect on the day fixed under the order or a later time fixed under subsection (2).

(2) The Judge or magistrate may, on the application of a Police officer made before a crime scene order stops having effect, extend the order for a stated reasonable time of not more than 7 days.

Review of crime scene order

81.—(1) If an application for a crime scene order was made in the absence, and without the knowledge, of the occupier of the place or the occupier had a genuine reason for not being present, the occupier may apply to the judge or magistrate for an order revoking the order.

(2) The Judge or magistrate may revoke or refuse to revoke the order.

(3) The making of an application for the judicial review of the order does not stay the effect of the order.

Provision of crime scene order to occupier

82.—(1) If a Police officer exercises powers under a crime scene order for a place that is occupied, the Police officer must give to the occupier a copy of the order and a statement in the approved form summarising the person's rights and obligations under the order.

(2) If the occupier is not present, the Police officer must leave the copy in a conspicuous place.

Subdivision 4—Police Powers at a Crime Scene

Powers at crime scene

83.—(1) The responsible officer at a crime scene, or a Police officer or Police associate acting under the direction of the responsible officer, may do any of the following in relation to the crime scene—

(a) enter the crime scene;

(b) if reasonably necessary, enter any other place to gain access to the crime scene;

(c) perform any necessary investigation, including, for example, a search and inspection of the crime scene and anything in it to obtain evidence of the commission of an offence;

(d) open anything at the crime scene that is locked;

(e) take electricity for use at the crime scene;

(f) dig up anything at the crime scene;

(g) remove wall or ceiling linings or floors of a building, or panels or fittings of a vehicle;

(h) remove or cause to be removed an obstruction from the crime scene;

(i) photograph the crime scene; or

(j) seize all or part of a thing that may provide evidence of the commission of an offence.

(2) If it is necessary to do anything at the place that may cause structural damage, the thing must not be done unless a judge issues a crime scene order that authorises the doing of the thing.

Powers of direction at crime scene

84. The responsible officer at a crime scene or a Police officer or Police associate acting under the direction of the responsible officer may, at a crime scene, use reasonable force necessary to do any of the following—

(a) secure a crime scene against unauthorised disturbance;

(b) prevent any unauthorised individual, animal or vehicle from disturbing or entering the crime scene;

(c) restrict entry to the crime scene to people, animals and vehicles, that are authorised;

(d) remove any unauthorised individual, animal or vehicle from the crime scene;

(e) if the crime scene is established in or around a vehicle, prevent the vehicle from being moved;

(f) prevent a thing relevant to the alleged offence to which a crime scene relates from being concealed or disturbed;

(g) prevent an individual from removing evidence from or otherwise interfering with the crime scene or anything in it and, for that purpose, detain and search the individual; or

(h) direct the owner or occupier or a person in charge of the place to maintain electricity, water or any other utility for use in the crime scene.

Exercise of crime scene powers in public place

85.—(1) A Police officer may exercise powers under sections 83 and 84 at a public place without a crime scene order.

(2) The Police officer may continue to act under subsection (1) for the time reasonably necessary for an application for a crime scene order to be made notwithstanding—

(a) if the place is open to the public; or

(b) the owner or occupier of the place requests a Police officer to leave the place.

Subdivision 5 – Miscellaneous

Alternative accommodation to be provided in some cases

86.—(1) This section applies to the occupier of a dwelling if the occupier is unable to remain in the dwelling—

(a) while the crime scene is established as a result of a direction given at a crime scene; or

(b) as a result of damage caused to the dwelling in the exercise of powers under this division.

(2) A Police officer must, as soon as reasonably practicable, inform the occupier of his or her right to be accommodated in a suitable alternative accommodation for the time the occupier is unable to remain in the dwelling.

(3) The Commissioner must, if requested by the occupier, arrange suitable alternative accommodation for the time the occupier is unable to remain in the dwelling.

(4) This section does not apply to an occupier who is detained in lawful custody.

Division 8—Use of and access to digital device

Definition of "specified person" in this division

87.—(1) Subject to subsections (2) and (3), a "specified person" means any of the following persons—

(a) a person reasonably suspected of having committed an offence in relation to which—

(i) a search warrant is issued;

(ii) a crime scene is established; or

(iii) a digital device was lawfully seized under this Act and removed from a place;

(b) the owner of a digital device;

(c) a person in possession of a digital device;

(d) an employee of the owner or person in possession of a digital device;

(e) a person who uses or has used a digital device; or

(f) a person who is or was a system administrator for the computer network of which the digital device forms or formed a part.

(2) Subsection (1) only applies in relation to a digital device—

(a) if the digital device is seized from a place for which—

(i) a search warrant is issued; or

(ii) a crime scene is established; or

(b) that is lawfully seized under this Act and removed from a place.

(3) A specified person referred to in subsection (1) is a specified person if he or she has, or is likely to have, knowledge necessary to gain access to—

(a) the digital device; or

(b) to the computer network of which the device forms or formed a part.

Search warrant orders for digital device information

88.—(1) If a magistrate or a judge issues a search warrant under Division 3, the magistrate or a judge may, in the search warrant, order a specified person to do any of the following in relation to a digital device—

(a) give a Police officer access to the digital device;

(b) give a Police officer access information to the digital device;

(c) provide any assistance necessary to the Police officer for access to the digital device; or

(d) allow a Police officer to—

(i) use access information to gain access to device information;

(ii) examine device information to determine whether the information may be evidence relevant to an investigation;

(iii) use another digital device to make a copy of device information that may be relevant evidence to an investigation; or

(iv) convert device information to a form that enables the device information to be understood and used by a Police officer as evidence relevant to an investigation.

(2) The magistrate or judge may, in the search warrant, order that a specified person is required to do a thing mentioned in subsection (1)*(b)*, *(c)* or *(d)* in relation to a digital device seized and removed from the place.

(3) An order made under subsection (2) must state to the specified person—

(a) the time and place at which the information or assistance mentioned in subsection (1)*(b)* or *(c)* is to be given to the Police;

(b) any conditions to which the provision of the information or assistance is subject; and

(c) that failure to comply with the order is an offence under section 91.

Orders following digital device being seized

89.—(1) This section applies if a digital device is—

(a) seized under a search warrant and removed from a place, and—

(i) the search warrant does not contain an order made under section 88(1) or (2); or

(ii) further access information is required for a Police officer to gain access to device information that may contain relevant evidence; or

(b) lawfully seized under this Act, other than under section 84*(j)*, and removed from a place.

(2) A Police officer may apply to a judge or magistrate for an order requiring a specified person to do a thing mentioned in section 88(1)*(b) (c)* or *(d)*.

(3) An application made under subsection (2)—

(a) may be made at any time after the digital device has been seized; and

(b) must be made to the court that issued the search warrant.

(4) An order made under subsection (2) must state to the specified person—

(a) the time and place at which the information or assistance mentioned in section 88(1)*(a)* or *(b)* is to be given to the Police;

(b) any conditions to which the provision of the information or assistance is subject; and

(c) that failure to comply with the order is an offence under section 91.

(5) A judge or magistrate may make an order under subsection (2) if satisfied—

(a) there are reasonable grounds to believe that device information from a digital device seized under a search warrant contains relevant evidence; or

(b) there are reasonable grounds to believe that device information from the digital device seized under a search warrant may contain relevant evidence of a crime scene threshold offence.

Orders relating to a digital device seized from a crime scene

90.—(1) A Police officer may apply to a judge or a magistrate for an order requiring a specified person to do a thing mentioned in subsection (2) in relation to a digital device—

(a) at a crime scene; or

(b) seized from a crime scene under section 83(1)*(j)*.

(2) The specified person may be required to—

(a) give a Police officer access to the digital device;

(b) give a Police officer access information to the digital device;

(c) provide any assistance necessary to the Police officer for access to the digital device; or

(d) allow a Police officer to—

(i) use access information to gain access to device information;

(ii) examine device information to determine whether the information may be evidence of the commission of a crime scene threshold offence; or

(iii) use another digital device to make a copy of device information that may be evidence of the commission of a crime scene threshold offence; or

(iv) convert device information to a form that enables the device information to be understood and used by a Police officer as evidence of the commission of a crime scene threshold offence.

(3) The judge or magistrate may make the order if satisfied there are reasonable grounds to suspect that device information from the digital device may be evidence of the commission of the offence for which the crime scene is established.

(4) The order must state—

(a) the time and place at which the information or assistance mentioned in subsection (2)*(b)* is to be given to the Police;

(b) any conditions to which the provision of the information or assistance is subject; and

(c) that failure to comply with the order is an offence under section 91.

(5) An application for an order under this section may be made in the same application for a crime scene order.

Contravening order about device information from digital device

91.—(1) A person who, without reasonable excuse, contravenes an order made under sections 88(1) or (2), 89(2) or 90(2) commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years.

(2) It is not a reasonable excuse to contravene an order made under sections 88(1) or (2), 89(2) or 90(2) on the basis that compliance with the order will incriminate the person.

Application of Part 5 of Cybercrime Act 2021

92. A police officer who makes an application for an order or warrant under this Part may also apply for an order or warrant under Part 5 of the Cybercrime Act 2021, if applicable, and the judge or magistrate may make the relevant orders or warrants under this Act and the Cybercrime Act 2021 as the judge or magistrate may determine.

Division 9—Forensic procedures

Subdivision 1–Preliminary provisions

Interpretation of Division 9

93. In this Division, unless the context otherwise requires—

"DNA sampler" means—

(a) subject to section 96(2), a Police officer authorised by the Commissioner to take a non-intimate DNA sample; or

(b) a medical practitioner or nurse who is requested by a Police officer to take a non-intimate DNA sample;

"forensic procedure" means—

(a) an intimate forensic procedure; and

(b) a non-intimate forensic procedure;

"forensic procedure consent" means consent under Subdivision 3 to a forensic procedure being performed;

"forensic procedure order" means an order under section 109 authorising a person to perform a forensic procedure;

"forensic sample" means—

(a) a non-intimate DNA sample; or

(b) a sample of blood, urine or other bodily fluid, excretion or substance;

"intimate area" means a person's genital or anal area, buttocks or breasts;

"intimate forensic procedure" means any or all of the following procedures—

(a) a procedure performed on a person's intimate area that involves—

(i) an external examination of the relevant part of the body;

(ii) taking a sample from the relevant part of the body, by swab, washing, vacuum suction, scraping or by lifting by tape;

(iii) making an impression or cast from the relevant part of the body; or

(iv) measuring the relevant part of the body;

(b) photographing a person's intimate area;

(c) a procedure performed on a person that involves—

(i) an internal examination of a body cavity;

(ii) taking a sample of the person's hair from an intimate area;

(iii) taking a sample, by swab or washing, from a body cavity other than the mouth;

(iv) removing a substance or thing from a body cavity other than the mouth;

(v) taking an x-ray of a part of the person's body;

(vi) taking a dental impression; or

(v) taking a sample of the person's blood, urine or other bodily fluid or substance;

"juveniles court" has the meaning given in section 2 of the Juveniles Act 1973;

"medical practitioner" means a registered medical practitioner who holds a current medical practice licence in accordance with the Medical and Dental Practitioner Act 2010;

"non-intimate DNA sample" means a sample—

(a) obtained by swabbing a person's mouth; or

(b) of a person's hair—

(i) including roots of the hair; and

(ii) but not including hair from an intimate area;

"non-intimate forensic procedure" means a procedure, performed on a person, that—

(a) is not an intimate forensic procedure;

(b) does not involve an intimate area; and

(c) involves any or all of the following—

(i) an examination of an external part of the person's body, that requires clothing to be removed or contact with the person's body;

(ii) taking a sample from a part of the person's body, by swab, washing, vacuum suction, scraping, or by lifting by tape;

(iii) photographing a part of the person's body;

(iv) making an impression or cast of a part of the person's body;

(v) taking a non-intimate DNA sample;

(vi) taking a sample of saliva;

(v) taking a sample from, or from under, a fingernail or toenail;

"nurse" means a nurse who is registered under the Nursing Act 2011;

"nurse practitioner" means a nurse practitioner who is registered under the Nursing Act 2011;

"parent", in relation to a person, means—

(a) a parent; or

(b) a legal guardian;

but does not include a manager appointed under section 108 of the Mental Health Act 2010;

"person subject to a procedure" means a person who is the subject or the proposed subject of a forensic procedure;

"person with impaired capacity" means a person whose capacity to look after or manage the person's own interests is impaired because of either of the following—

(a) an obvious loss or partial loss of the person's mental functions; or

(b) an obvious disorder, illness or disease that affects a person's thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour;

"qualified person" means the relevant person listed in section 95 who may perform the specified procedure under that section;

"specialised nurse" means a nurse or nurse practitioner who—

(a) is registered under the Nursing Act 2011 as a specialised nurse; and

(b) has completed specific training on forensic examination; and

"support person" means—

(a) for a child—

(i) a parent of the child;

(ii) a lawyer acting for the child;

(iii) an adult relative or friend of the child who is acceptable to the child; or

(iv) if the persons mentioned in subparagraphs (i) to (iii) is available, a justice of the peace, other than a justice of the peace who is a member of the Force; and

(b) for a person with impaired capacity, a parent or any other adult who provides or is able to provide support necessary to help care for the person by looking after or managing the person's interests.

Division not to derogate from common law

94. This Division does not derogate from the rules of common law relating to sexual offences under the Crimes Act 2009.

Subdivision 2—Qualified Persons and Rules

Procedures to be performed by qualified persons

95.—(1) The qualified person listed in the first column in the table below may perform the forensic procedure listed in the second column—

Qualified person	**Forensic procedure**
A medical practitioner, dentist or specialised nurse	An intimate forensic procedure and a non-intimate forensic procedure
DNA sampler	Taking a non-intimate DNA sample
An authorised examiner	A non-intimate forensic procedure that is a non-medical examination
A Police officer	Taking identifying particulars

(2) Notwithstanding subsection (1), a dentist may perform a forensic procedure only to the extent necessary to—

(a) examine a person's mouth;

(b) take a sample of a person's saliva;

(c) take a dental impression of a person's mouth; or

(d) examine a bite mark on a person.

(3) If a qualified person takes a person's identifying particulars under this Division, the qualified person may also photograph the person's identifying particulars.

DNA sampler

96.—(1) The Commissioner may authorise a Police officer to act as a DNA sampler if the Commissioner is satisfied that the Police officer has—

(a) the necessary experience or expertise to take the samples; and

(b) satisfactorily completed a course of training approved by the Commissioner for the purpose.

(2) A DNA sampler may take a non-intimate DNA sample in accordance with this Division.

When forensic procedures may be performed

97. A forensic procedure may only be performed on a person under this Division if the forensic procedure consent is obtained from—

(a) the person subject to a procedure;

(b) a support person for a child who is under 14 years of age or a person with impaired capacity; or

(c) the procedure is performed under a forensic procedure order.

Subdivision 3—Consent

General rules about asking for consent

98.—(1) A Police officer may ask for forensic procedure consent if the Police officer is satisfied that the consent obtained from the person subject to a procedure or a support person is not affected by alcohol or a drug use.

(2) The Police officer may ask for forensic procedure consent if—

(a) the Police officer reasonably suspects that the person subject to the procedure has committed an indictable offence; or

(b) the forensic procedure requires the taking of a non-intimate DNA sample, for any of the following purposes—

(i) to determine whether the person is a suspect in relation to an offence;

(ii) to locate a missing person;

(iii) to verify the identity of another person; or

(iv) identify a deceased person, including the remains of a deceased person.

(3) This section applies whether or not criminal proceedings have been initiated against the person subject to the procedure and for which the results of performing the forensic procedure may be relevant.

Special requirement for child of 14 years or older

99.—(1) This section applies if a Police officer reasonably suspects that the person subject to a forensic procedure is a child who is 14 years or older.

(2) A Police officer must not ask a child to give a forensic procedure consent unless the officer has, in a manner and language that the child can understand and having regard to the child's age and level of maturity—

(a) explain to the child the matters under section 103;

(b) give the child reasonable opportunity to ask questions and express his or her views freely;

(c) inform the child that he or she may refuse to give consent;

(d) inform the child that he or she may withdraw consent at any time before or during the performance of the forensic procedure;

(e) give the child reasonable opportunity to meet privately with a support person before deciding whether to give consent;

(f) inform the child that he or she may request the presence of a support person during the performance of the forensic procedure; and

(g) ensure that any assistance reasonably necessary to help the child understand the explanation and communicate his or her decision is provided.

(3) If the child requests the presence of a support person during the performance of the forensic procedure, the Police officer must ensure that a support person is present during the performance of the procedure, unless it is not reasonably practicable in the circumstances.

(4) A consent given by a child is invalid unless the Police officer has complied with subsection (2).

(5) In determining whether a child understands the matters mentioned in subsection (2), the Police officer must have regard to the child's age, level of maturity, and ability to understand the nature and consequences of the forensic procedure.

Special requirement for child under 14 years of age

100.—(1) This section applies if a Police officer reasonably suspects the relevant person is a child who is under the age of 14 years.

(2) The Police officer may ask a support person to give a forensic procedure consent for the child.

(3) If the support person gives a forensic procedure consent for the child authorising the taking of a sample for DNA analysis, the sample taken must be a non-intimate DNA sample and not a sample of the child's blood.

(4) Subsection (5) applies if the support person gives a forensic procedure consent for the child relating to the performance of a non-intimate forensic procedure.

(5) A support person must be present while the procedure is being performed.

Person with impaired capacity

101.—(1) This section applies if a Police officer reasonably suspects the person subject to a procedure is a person with impaired capacity.

(2) A Police officer must not ask the person to give a forensic procedure consent unless the officer has, in a manner and language that the person can understand and having regard to the person's level of understanding—

(a) explain to the person the matters under section 103;

(b) provided the person with the support and assistance reasonably necessary to enable the person to understand the explanation, make and communicate the decision;

(c) inform the person that he or she may refuse to give consent;

(d) inform the person that he or she may withdraw consent at any time before or during the performance of the forensic procedure;

(e) give the person a reasonable opportunity to meet privately with a support person before deciding whether to give consent; and

(f) inform the person that he or she may request the presence of a support person during the performance of the forensic procedure.

(3) The Police officer must assess the person's ability to understand the purpose of the forensic procedure consent required.

(4) If the Police officer is satisfied that the person does not have the capacity to give a forensic procedure consent, the Police officer may ask a support person to give the consent for the person.

(5) If the person requests the presence of a support person during the performance of the forensic procedure, the Police officer must ensure that a support person is present during the performance of the procedure.

(6) A consent given by the person under this section is invalid unless the Police officer has complied with this section.

(7) A parent who gives a forensic procedure consent under this section for a person subject to a procedure that is a child, must be present while the procedure is being performed.

Informed consent

102.—(1) A Police officer must ensure that the explanation required under section 103 is provided to a person subject to a procedure and that the person is given reasonable time to consider the explanation.

(2) If, under section 100(2) or 101(4) a support person is asked to give a forensic procedure consent and the person subject to a procedure is not present when the explanation under section 103 is given to the support person, a Police officer must—

(a) to the extent that is reasonably practicable in the circumstances, give the person subject to a procedure an explanation of the matters mentioned in section 103(1); and

(b) inform the child or person that the child or person may object to the performance of the forensic procedure.

Explanations to ensure informed forensic procedure consent

103.—(1) To enable a person subject to a procedure to give an informed forensic procedure consent, a Police officer must inform the person of the following—

(a) the purpose of the forensic procedure on the person;

(b) whether an intimate forensic procedure or a non-intimate forensic procedure or both is proposed;

(c) the nature of the forensic procedure;

(d) the qualified person who may perform the forensic procedure;

(e) that the person may refuse to give a forensic procedure consent;

(f) that if the person gives consent, the person may withdraw the consent before the forensic procedure is performed or while it is being performed;

(g) if a sample is taken for forensic analysis and section 100(3) does not apply, that—

(i) the person may limit the purpose for which the results of the forensic analysis may be used to the purpose stated by the Police officer under paragraph *(a)*; and

(ii) unless the person limits the purposes of the consent in that way, the results of the forensic analysis of the sample may be included in the Force database and used for the purposes described in section 98;

(h) if a sample may be taken for forensic analysis and section 100(3) does apply, that—

(i) the sample taken for analysis must be a non-intimate DNA sample and not a sample of blood;

(ii) a forensic analysis of the sample may be used only for the purpose stated by the Police officer under paragraph *(a)*; and

(i) that the forensic procedure may provide evidence that may be used in a court proceeding.

(2) The Police officer must provide the explanation in this section in an approved form.

Recording consent

104.—(1) A Police officer who provides an explanation pursuant to section 103(2) must—

(a) in the approved form signed by the person record the forensic procedure consent; or

(b) electronically record the explanation and the forensic procedure consent.

(2) A written forensic procedure consent is only valid if it is—

(a) in the approved form; and

(b) signed by the person subject to a procedure or a support person.

Subdivision 4—Forensic procedure orders

Application of subdivision 4

105.—(1) This subdivision only applies if a Police officer is satisfied that performing a forensic procedure on a person suspected of committing an indictable offence may provide evidence of the commission of the offence.

(2) This Subdivision applies even if the person subject to a procedure is deceased.

(3) A Police officer must not apply for a forensic procedure order under this subdivision in relation to a child if—

(a) the only purpose of the application is to obtain authority to take fingerprints or photographs of the child;

(b) it is practicable to make an application under section 25 of the Juveniles Act 1973 for an order of a magistrate to take fingerprints or photographs of the child; and

(c) it is likely that an order made under section 25 of the Juveniles Act 1973 can be given immediate effect.

(4) Without limiting subsection (3)*(b)*, it is taken impracticable to make the application under subsection (3)*(b)* if the whereabouts of the child to whom it relates are not sufficiently known to the Police officer to allow the officer to give notice of that application to the child.

Application for forensic procedure order

106.—(1) If there is no forensic procedure consent, a Police officer may apply to the magistrate for an order authorising a qualified person to perform on the person named in the application—

(a) an intimate or non-intimate forensic procedure; or

(b) both an intimate and a non-intimate forensic procedure.

(2) If the person is a child, the application must be made to a juvenile court.

(3) The application—

(a) must be sworn and state the grounds on which it is made; and

(b) may be made whether or not the person has previously consented to the forensic procedure being performed.

(4) The magistrate may refuse to consider the application until the Police officer provides to the magistrate the information the magistrate requires and in the form that the magistrate requires.

Notice of application

107.—(1) The person to whom the application relates must be given notice of the application not less than 7 days before the hearing of the application.

(2) The notice must state—

(a) the grounds on which the application is made;

(b) the time and place where the application is to be heard;

(c) that the person must appear at the hearing and be heard on the application; and

(d) that if the person does not appear, the application may be decided in the absence of the person.

(3) If the person appears at the time and place stated in the notice, the person is entitled to be heard on the application.

(4) If the person does not appear at the time and place stated in the notice, the application may be decided in the absence of the person.

(5) Subsection (1) does not apply if the person is deceased.

(6) This section is subject to section 105.

Exemptions from Notice requirement

108.—(1) This section applies if the magistrate is satisfied—

(a) that a Police officer has made reasonable attempt to locate the person to whom the application relates and was unable to locate the person;

(b) that the person is likely to abscond if given notice of the application;

(c) that evidence obtained by performing the forensic procedure to which the application relates is likely to be lost or destroyed if the person is given notice of the application; or

(d) giving notice of the application to the person may compromise the investigation of any indictable offence the person is suspected of having committed because—

(i) evidence relating to the offence may be concealed, fabricated or destroyed;

(ii) a witness may be intimidated; or

(iii) an accomplice or accessory of the person may take steps to avoid apprehension.

(2) A person to whom this section applies is not entitled to be given notice of the application under section 107 or to be heard in relation to the application.

Forensic procedure order

109.—(1) A magistrate may make a forensic procedure order in relation to a person if the magistrate is satisfied on the balance of probabilities that—

(a) there are reasonable grounds to believe that performing the forensic procedure on the person named in the application may provide evidence of the commission of an indictable offence the person is suspected of committing; and

(b) carrying out the forensic procedure is justified in the circumstances.

(2) In deciding whether performing the forensic procedure on the person is justified in the circumstances, the magistrate must balance the rights and liberties of the person and the public interest.

(3) In balancing the interests in subsection (2) the magistrate may have regard to any of the following matters—

(a) the seriousness and the gravity of the suspected offence and the circumstances surrounding its commission;

(b) the degree of the person's alleged participation in the commission of the suspected offence;

(c) the age, physical and mental health of the person, to the extent they are made known to the magistrate or can be reasonably ascertained by the magistrate;

(d) the welfare of the person, if the person is a child or a person with impaired capacity;

(e) whether there exists a less intrusive but reasonably practicable way of obtaining evidence that is likely to prove whether or not the person committed the suspected offence;

(f) where the person refuses to give consent to a forensic procedure in relation to the suspected offence, the reasons for the refusal to the extent they are known to the magistrate or can be reasonably ascertained by the magistrate;

(g) if the person is in custody for the suspected offence—

(i) the period for which the person has already been detained; and

(ii) the reason for any delay in applying for the forensic procedure order; and

(h) any other matter the magistrate considers relevant in reaching a decision under subsection (2).

Content and duration of forensic procedure order

110.—(1) A forensic procedure order must state—

(a) the relevant person's name;

(b) that a forensic procedure may be performed on the person by a qualified person;

(c) the forensic procedure to be performed; and

(d) that a Police officer may exercise the powers in section 111.

(2) A forensic procedure order stops having effect when the forensic procedure authorised under the order is completed.

Powers for enforcing forensic procedure order

111.—(1) A Police officer has the following powers with respect to enforcing a forensic procedure order—

(a) to detain the relevant person for a reasonable time and take the person to a place with appropriate facilities and persons for performing the relevant forensic procedure;

(b) to direct the relevant person—

(i) to attend at a stated place on a stated day or between stated hours, within 7 days after the direction is given to the person to enable the relevant forensic procedure to be performed; and

(ii) to stay at the place for the time reasonably necessary to enable the relevant procedure to be performed.

(2) Subsection (1)*(a)* applies whether or not the relevant person is given a direction under subsection (1)*(b)*.

Order must be given before forensic procedure is performed

112.—(1) A Police officer must give a copy of a forensic procedure order to the person subject to the procedure before a qualified person performs a forensic procedure on the person under the order.

(2) Subsection (1) does not apply if the person is unconscious or deceased.

Qualified person may perform forensic procedure

113. A qualified person may perform the forensic procedure on a person under a forensic procedure order and must do so in accordance with the order.

Subdivision 5 – Laboratory or other facility

Police laboratory or other facility

114.—(1) The Commissioner may establish or continue a laboratory or other facility within the Force where—

(a) identifying particulars may be taken;

(b) a body sample may be obtained under sections 22 and 29;

(c) the testing of a body sample obtained under sections 22 and 29 may be carried out;

(d) a DNA profile may be created, derived from a body sample obtained under sections 22 and 29;

(e) a forensic procedure may be carried out under this Division;

(f) the testing of a forensic sample obtained under this Division may be carried out;

(g) a DNA profile may be created, derived from a forensic procedure carried out under this Division; or

(h) any other material or substance may be tested through scientific methods to ascertain its make-up and properties.

(2) The Commissioner may employ a person to do an act under subsection (1) if the person—

(a) has the necessary experience and qualifications to be a qualified person as listed under section 95 to take identifying particulars or carry out a forensic procedure; or

(b) is an analyst with the necessary experience and qualifications to test a body sample or forensic sample, create a DNA profile or test a material or substance under subsection (1)*(h)*.

(3) For the avoidance of doubt, this section does not restrict the doing of a thing listed in subsection (1) to only a Force laboratory or facility.

Approved laboratory or other facility

115.—(1) The Commissioner may approve by order in the Gazette a laboratory or other facility where—

(a) identifying particulars may be taken;

(b) a body sample may be obtained under sections 22 and 29;

(c) the testing of a body sample obtained under sections 22 and 29 may be carried out;

(d) a DNA profile may be created, derived from a body sample obtained under sections 22 and 29;

(e) a forensic procedure may be carried out under this Division;

(f) the testing of a forensic sample obtained under this Division may be carried out;

(g) a DNA profile may be created, derived from a forensic procedure carried out under this Division; or

(h) any other material or substance may be tested through scientific methods to ascertain its make-up and properties.

(2) The approved laboratory or facility may only carry out the functions under subsection (1) through a person who—

(a) has the necessary experience and qualifications to be a qualified person as listed under sectin 95 to take identifying particulars or carry out a forensic procedure; or

(b) is an analyst with the necessary experience and qualifications to test a forensic sample, create a DNA profile or test a material or substance under subsection (1)*(h)*.

(3) The information received, processed or analysed by the approved laboratory or facility is confidential and the approved laboratory or facility must not share it with any person except—

(a) the Force for a purpose permitted under this Act; or

(b) if required under an order of a court.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $10,000 or imprisonment for a term not exceeding 5 years or both; or

(b) in the case of a body corporate, a fine not exceeding $100,000.

Use of analyst certificate as evidence

116.—(1) In any proceedings under this Act or any other written law, the production of a certificate purporting to be signed by an analyst under section 114 or 115 is *prima facie* evidence of the facts stated in the certificate.

(2) A copy of the analyst certificate must be served by or on behalf of the prosecutor on the accused person or his or her defence counsel at least 42 working days before the hearing at which the certificate is to be tendered as evidence, the accused must be informed in writing that the prosecutor does not propose to call the person who made the analysis as a witness.

(3) If the accused person intends to cross-examine the analyst, the accused must, in writing give the prosecution at least 21 working days' notice of his or her intention to do so to enable the prosecution to produce the analyst at the hearing.

Subdivision 6—Records and storage of forensic samples

Recording forensic procedures

117. A person who carries out a forensic procedure under this Division must make and sign a record of the procedure as soon as practicable after the procedure and submit the record to the Force in accordance with prescribed procedures.

Storage on Force database of forensic sample and analysis

118.—(1) Subject to subsection (2), the record under section 117 and the information related to the forensic sample obtained under this Division must be stored on the Force database.

(2) The record under section 117 and, if practicable, the forensic sample and analysis obtained under this Division must be destroyed as soon as practicable after—

(a) a decision is made not to commence criminal prosecution proceedings against the person in respect of the offence for which the forensic sample was taken; or

(b) criminal prosecution proceedings that are commenced against the person in respect of the offence for which the particulars were taken are completed with an outcome that is not an outcome that authorises continued storage.

(3) The outcomes mentioned in subsection (2)*(b)* are as follows—

(a) the person admits to and completes a programme of diversion conducted by the Police for the offence for which the forensic sample was taken;

(b) the person is convicted of the offence for which the forensic sample was taken; or

(c) the person is discharged under section 44 of the Sentencing and Penalties Act 2009 in respect of the offence for which the forensic sample was taken.

PART 6—MISCELLANEOUS POWERS

Temporary closure of roads

119.—(1) A Police officer may temporarily control traffic on a public road or close the road to traffic if the Police officer has reasonable cause to believe that—

(a) public disorder exists or is imminent at or near that place;

(b) danger to a member of the public exists or may reasonably be expected at or near that place; or

(c) an offence is being committed or is about to be committed at or near that place.

(2) In this section,—

"temporarily" means for a period that is reasonably necessary in the circumstances; and

"traffic" means any or all specified type of traffic, including pedestrian traffic.

Erecting barriers

120.—(1) Subject to subsection (2), a Police officer may erect or place barriers in or across any road, street or any other public place in such manner as he or she may consider necessary.

(2) A Police officer may only exercise the power under subsection (1) if he or she considers it necessary for—

(a) maintaining and preserving law and order;

(b) preserving the peace;

(c) preventing or detecting crime; or

(d) apprehending offenders.

(3) A Police officer—

(a) must, if reasonably practicable, notify the community policing committee in the area of the decision to erect a barrier; and

(b) may take all such reasonable steps as he or she considers necessary to prevent any person or vehicle from passing the barrier.

(4) A person who—

(a) crosses the barrier without authorisation from a Police officer; or

(b) fails to comply with a reasonable signal made or direction given by a Police officer to not cross a barrier under this section,

commits an offence and is liable on conviction to a fine not exceeding $1,000 or imprisonment for a term not exceeding 12 months or both.

(5) The Police officer and the Force are not liable for any loss, damage or injury to a person or property as a result of exercising powers under this section.

Care and protection of an intoxicated person

121.—(1) A Police officer who finds a person intoxicated in a public place, or intoxicated while trespassing on private property, may detain and take the person into custody if—

(a) the Police officer reasonably believes that the person is—

(i) incapable of protecting himself or herself from physical harm;

(ii) likely to cause physical harm to any other person; or

(iii) likely to cause significant damage to any property; and

(b) the Police officer is satisfied it is not reasonably practicable to provide for the person's care and protection by—

(i) taking the person to his or her place of residence; or

(ii) taking the person to a temporary shelter.

(2) A person detained under subsection (1) must—

(a) be released as soon as the person is no longer intoxicated; and

(b) not be detained longer than 12 hours after the person is first detained, unless a medical practitioner recommends that the person be further detained for a period not exceeding 12 hours.

(3) A medical practitioner must not recommend the further detention of a person detained under subsection (1) unless the medical practitioner satisfies himself or herself that—

(a) the person remains intoxicated and is incapable of protecting himself or herself from physical harm;

(b) the person does not have health needs that may require medical attention; and

(c) it is not reasonably practicable to provide for the person's continuing care and protection by—

(i) taking the person to his or her place of residence; or

(ii) taking the person to a temporary shelter.

(4) In this section—

"intoxicated" means observably affected by alcohol, other drugs, or substances to such a degree that speech, balance, co-ordination, or behaviour is clearly impaired;

"medical practitioner" has the meaning given in section 2 of the Medical and Dental Practitioner Act 2010; and

"temporary shelter" means a place other than a place operated by the Police that is capable of providing for the care and protection of an intoxicated person.

Inspection of proof of authorisation

122.—(1) A Police officer may—

(a) stop and detain any person whom he or she sees doing an act for which a form of authorisation is required under the provisions of any law; and

(b) request the person to produce the authorisation.

(2) If the person does not produce the authorisation, the Police officer may arrest the person without a warrant unless—

(a) he or she gives his or her personal details to the Police officer; and

(b) the Police officer is satisfied that the person will duly answer any summons or other proceedings which may be taken against him or her.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding $500 or imprisonment for a term not exceeding 12 months or both.

PART 7—DISCIPLINE

Division 1—Disciplinary Offences

Subdivision 1 — Code of Conduct

Code of conduct

123.—(1) The Minister must, on the recommendation of the Commissioner, prescribe a code of conduct for Police staff.

(2) The Minister may, on the recommendation of the Commissioner, amend the code of conduct.

Compliance with this Act and the code of conduct

124.—(1) A member of Police staff must—

(a) comply with this Act and the code of conduct; and

(b) perform his or her duties or functions, and exercise his or her powers, in accordance with this Act and the code of conduct.

(2) A member of Police staff who contravenes this Act or the code of conduct commits a disciplinary offence.

Extended jurisdiction

125. Any member of Police staff who contravenes any provision of the code of conduct may be dealt with under the provisions of this Act, whether or not the alleged contravention has taken place in or outside Fiji.

Subdivision 2—Complaints

Complaints against member of Police staff

126.—(1) A person may make a complaint against any member of Police staff to the Commissioner in the prescribed form and manner.

(2) The Commissioner must establish a platform which allows for the anonymous and user-friendly lodgement of complaints.

(3) The Commissioner must within 30 days after receiving a complaint, respond to the complaint.

Subdivision 3—Investigations

Investigation and summary dismissal

127.—(1) The Commissioner must ensure that the complaint made against a member of Police staff is investigated as soon as practicable.

(2) The Commissioner may summarily dismiss a complaint if—

(a) further and material information and details are not provided by the complainant;

(b) further and material information and details are not verified by the complainant;

(c) the complaint is vexatious, misconceived, frivolous, or lacking in substance;

(d) the conduct complained of has been the subject of a previous complaint that has been dismissed or dealt with, either under this Act or under the repealed Act;

(e) the conduct complained about is the subject of another complaint; or

(f) the conduct complained of is not one that the Commissioner is empowered to deal with under this Act.

(3) If subsection (2)*(f)* applies, the Commissioner must refer the complaint to the relevant authority empowered to deal with the complaint.

(4) If the Commissioner summarily dismisses a complaint, the Commissioner must promptly give the complainant a written notice of the dismissal including the reasons for the dismissal.

(5) If a complaint has been summarily dismissed by the Commissioner, the complainant may appeal the decision to the Fiji Police Force Disciplinary Tribunal.

(6) If the Commissioner does not summarily dismiss the complaint, the Commissioner must refer the complaint to a senior officer to serve as an ad hoc internal tribunal under section 128.

Ad hoc internal tribunals

128.—(1) The senior officer selected by the Commissioner may serve as the ad hoc internal tribunal to hear and determine the complaint.

(2) If the tribunal finds the accused person has committed the disciplinary offence the tribunal may, subject to subsection (3), determine the penalty to be imposed and measures to be taken.

(3) The Commissioner may prescribe the range and types of penalties which may be imposed and measures to be taken.

(4) The charge must be read and investigated in the accused person's presence, and he or she must be given sufficient opportunity to make his or her defence.

(5) The accused person is entitled to representation before the proceedings, either by an internal advocate of his or her choice or by an external legal practitioner.

Subdivision 4—Review of Decisions of ad hoc internal tribunal

Review of ad hoc internal tribunal by Commissioner

129.—(1) A person aggrieved by a decision of the ad hoc internal tribunal may appeal the decision, within the prescribed period, to the Commissioner.

(2) The Commissioner may, in relation to a decision of the tribunal,—

(a) quash the decision;

(b) alter the decision, find the offender liable for any other offence and punish him or her in accordance with his or her powers under section 10;

(c) confirm the decision and punish the offender in accordance with his or her powers under section 10;

(d) remit the proceedings to the tribunal which heard them, or a different internal ad hoc tribunal, for rehearing.

(3) A person aggrieved by the decision of the Commissioner under this section may appeal the decision to the Fiji Police Force Disciplinary Tribunal.

Subdivision 5—Fiji Police Force Disciplinary Tribunal

Establishment of Fiji Police Force Disciplinary Tribunal

130.—(1) The Fiji Police Force Disciplinary Tribunal is established.

(2) The Tribunal consists of the following members appointed by the Chief Justice after consultation with the Minister —

(a) the chairperson, who must be a person who is, or is qualified to be appointed as, a Judge;

(b) one member with experience and qualifications in the Force but who is not a member of Police staff on the date of appointment; and

(c) one civilian member.

(3) The members of the Tribunal are to be appointed for a term of 3 years, and are eligible for reappointment.

(4) The Chief Justice, after consultation with the Minister, must appoint a person to act as a member of the Tribunal during any period where—

(a) there is a vacancy in the membership of the Tribunal;

(b) a member is absent from duty, including being absent from Fiji; or

(c) a member is, for any reason, unable to perform the functions of office.

(5) The Chief Justice may, after consultation with the Minister, remove a member of the Tribunal from office for inability to perform the functions of office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour, and may not otherwise be removed.

(6) The Tribunal has the function of—

(a) hearing and determining appeals against decisions of the Commissioner under section 127(2) and 129(2); and

(b) any other prescribed authority, function or responsibility.

(7) A decision of the Tribunal is subject to further appeal to the High Court.

(8) The Tribunal must be independent and is not subject to the direction or control of any person or authority, except by a court of law or as otherwise required by written law.

(9) The members of the Tribunal are entitled to such remuneration as determined by the Chief Justice after consultation with the Minister, and any such remuneration must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.

(10) The Tribunal may regulate its own procedure and may make such rules and regulations as it deems fit for regulating and facilitating the performance of its functions.

(11) The Tribunal must provide regular updates and advice to the Minister on any matter relating to its functions and responsibilities.

(12) The salaries, benefits and allowances payable to the members of the Tribunal are a charge on the Consolidated Fund.

(13) Parliament must ensure that adequate funding and resources are made available to the Tribunal, to enable it to independently and effectively exercise its powers and perform its functions and duties.

Division 2 — Employment Grievances

Employment Relations Act 2007

131. An employment grievance concerning a member of Police staff that does not amount to a disciplinary offence under this Act and which has not been or is not being pursued under Division 1 of this Part is to be dealt with in accordance with the Employment Relations Act 2007.

PART 8—RESIGNATION, RETIREMENT AND TERMINATION

Application of Part 8

132. This Part does not apply to the Commissioner.

Resignation

133.—(1) A member of Police staff may resign from the Force by giving the Commissioner a signed notice of resignation.

(2) The member must give the notice to the Commissioner at least 30 days before the proposed date of resignation.

(3) A resignation is not effective unless it is approved in writing by the Commissioner.

(4) The Commissioner must decide whether or not to approve the resignation no later than 30 days after receiving the notice.

(5) The Commissioner must not unreasonably refuse to accept a resignation.

(6) Where the member has incurred debts with the Force, he or she must pay his or her debts before resigning from the Force.

Compulsory retirement age

134. The compulsory retirement age for a member of Police staff is 55 years or as prescribed in the standing orders.

Performance review on reaching compulsory retirement age

135.—(1) Subject to subsection (2), if the Commissioner considers it necessary, the Commissioner may continue the appointment of a member of Police staff who has reached the compulsory retirement age.

(2) The member must undertake a performance review to determine whether the member is able to continue to perform the duties of a member in a satisfactory manner.

(3) The nature of the performance review must be determined by the Commissioner.

(4) If the member fails to undertake the performance review or fails to satisfactorily complete the performance review, the Commissioner must not continue the appointment of the member.

Termination of appointment

136.—(1) The Commissioner may order the termination of the appointment of a person who is a Police officer or special constable—

(a) if the person fails to meet the health standard prescribed by the Commissioner;

(b) if the person fails, fails to undertake, or fails to satisfactorily complete, a performance review; or

(c) due to a reduction in the establishment of the Force.

(2) The Commissioner may also order the termination of the person's appointment if the Commissioner loses confidence in the person's suitability to be a Police officer or special constable due to the—

(a) person's lack of sufficient competence or integrity;

(b) manner in which the person has performed his or her duties; or

(c) the person's conduct, either on duty or off duty.

Termination of employment or engagement

137. The Commissioner may terminate the employment or engagement of a person who is a Police employee, Police associate or Police consultant in accordance with the terms of the employment contract or engagement agreement between the Force and the person and for any of the following reasons—

(a) if the person fails, fails to undertake, or fails to satisfactorily complete, a performance review;

(b) due to a reduction in the establishment of the Force.

PART 9—COMMUNITY POLICING

Objectives of community policing

138.—(1) The Force must work with and within communities through community policing initiatives, to—

(a) establish, strengthen and maintain partnerships between communities and the Force;

(b) foster communication and cooperation between communities and the Force;

(c) prevent crime and reduce harm through collaboration, partnership and problem-solving;

(d) improve trust, accountability, and responsiveness in policing services;

(e) promote public safety while respecting human rights and cultural context; and

(f) improve police services to the community at the national, municipal and maritime island level.

Divisional Police command

139.—(1) The Commissioner may prescribe an area as the jurisdiction of divisional Police command for the purposes of this Part.

(2) The Commissioner may, within the prescribed jurisdiction, establish police stations.

(3) A divisional Police commander must—

(a) within his or her jurisdiction, support and coordinate community policing initiatives between Police stations to achieve the objects of this Part; and

(b) prepare regular community policing reports for central Police command to assess the effectiveness of the community policing initiatives.

(4) A divisional Police commander is, in relation to his or her jurisdiction, accountable to Police central command for the implementation of this Part.

Role of police stations in community policing

140.—(1) The Commissioner may prescribe an area as the jurisdiction of a police station for the purposes of this Part.

(2) The Commissioner may, within the prescribed jurisdiction, establish community police posts.

(3) The officer in charge of the police station must, within the prescribed jurisdiction,—

(a) implement community policing policies and guidelines made by the Commissioner;

(b) coordinate community policing initiatives between police posts;

(c) ensure that an officer in charge of a police post continuously engages with and supports the work of community policing committees, community support groups and faith-based and cultural institutions;

(d) serve as a reporting and communication pathway between the police posts and divisional command; and

(e) prepare regular community policing reports for divisional command to assess the effectiveness of community policing initiatives.

(4) The officer in charge of the police station is accountable to divisional Police command for the implementation of this section.

Role of police posts in community policing

141.—(1) The Commissioner may prescribe an area as the jurisdiction of a police post for the purposes of this Part.

(2) The officer in charge of the police post must, within the prescribed jurisdiction,—

(a) implement community policing policies and guidelines made by the Commissioner;

(b) engage with and support the work of community policing committees, community advocacy and support groups and faith-based and cultural institutions;

(c) facilitate training for or with members of the community, community policing committees, community advocacy and support groups and faith-based and cultural institutions;

(d) serve as a reporting and communication focal point and pathway for the community, community policing committees, community advocacy and support groups and faith-based and cultural institutions; and

(e) prepare regular community policing reports to be submitted to the coordinating Police station.

(3) The officer in charge of the police post is accountable to the coordinating police station for the implementation of this section.

Establishment of community policing committees

142.—(1) The officer in charge of a police post must, in consultation with members of a community, facilitate and support the establishment of community policing committees.

(2) A community may establish a community policing committee.

(3) Subject to subsection (4), a community policing committee may determine its own format, structure and rules of procedure.

(4) A community policing committee must consist of representatives of community members in the area concerned elected for that purpose.

(5) The Force must seek to work with and support community policing committees in accordance with and to fulfil the objects of this Part.

Functions of community policing committees

143. A community policing committee must perform the functions it considers necessary and appropriate for meeting the objects listed in section 138.

PART 10—OFFENCES

Unauthorised possession, use and manufacture of Police property

144.—(1) A person commits an offence who, without an authorisation under section 145 or a reasonable excuse—

(a) has in his or her possession Police property;

(b) uses, exchanges or makes available for the use of any other person Police property;

(c) designs, manufactures, produces, reproduces or creates Police property;

(d) sells, offers for sale or distributes Police property;

(e) buys, borrows or takes Police property; or

(f) imports or exports Police property.

(2) A person who commits an offence under this section is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $10,000 or imprisonment for a term not exceeding 5 years or both; or

(b) in the case of a body corporate, a fine not exceeding $100,000.

Authorisations for section 144

145.—(1) The Commissioner may authorise in writing a person to—

(a) have in his or her possession Police property;

(b) use, exchange or make available for the use of any other person Police property;

(c) design, manufacture, produce, reproduce or create Police property;

(d) sell, offer for sale or distribute Police property;

(e) buy, borrow or take Police property; or

(f) import or export Police property.

(2) The Commissioner may, for a prescribed purpose, authorise in writing a person to design, manufacture, produce, reproduce, create, sell, offer for sale or distribute articles of clothing or accessories bearing the Police logo, insignia or emblem.

(3) A person authorised by the Commissioner under subsection (2) must maintain proper records in the approved form of all persons to whom the article or accessory is sold, given, or distributed.

(4) The Commissioner may revoke an authorisation given under subsection (2) if the person to whom it was given does not comply with subsection (3).

Unauthorised use of terms

146.—(1) A person commits an offence who, without reasonable excuse, carries on an activity and uses the word "Police", the words "Fiji Police" or "Fiji Police Force" or other similar words, in a manner likely to lead a person to believe that the activity is endorsed or authorised by the Police or any part of the Police.

(2) A person who commits an offence under this section is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $10,000 or imprisonment for a term not exceeding 5 years or both; or

(b) in the case of a body corporate, a fine not exceeding $100,000.

Misrepresentation of a Police vehicle

147.—(1) A person commits an offence who, without reasonable excuse, represents any vehicle, craft, or other conveyance of any kind or description—

(a) as being in the service of the Police; or

(b) in circumstances likely to lead a person to believe the vehicle, craft, or conveyance is in the service of the Police.

(2) Except in the circumstances under subsection (3), a person who commits an offence under this section is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $10,000 or imprisonment for a term not exceeding 5 years or both; or

(b) in the case of a body corporate, a fine not exceeding $100,000.

(3) If a person commits an offence under subsection (1) and the vehicle, craft, or other conveyance represented as being in the service of the Police is used in relation to the commission of an offence, the person is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $50,000 or imprisonment for a term not exceeding 10 years or both; or

(b) in the case of a body corporate, a fine not exceeding $500,000.

Inducement

148. A person who induces or attempts to induce or does any act calculated to induce a member of Police staff to withhold his or her services or to commit any breach of discipline commits an offence and is liable on conviction to a fine not exceeding $1,000 or imprisonment for a term not exceeding one month or both.

Disorderly conduct in Police premises

149. A person who, in a police station, police office or cell, police vehicle or vessel or in any place in which the Police operate, conducts himself or herself with riotous, indecent, disorderly or insulting behaviour commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months.

False declaration on oath

150. A Police staff who wilfully makes a false statement to any question put to him or her under section 13(2), 14(9) and 15(3) commits an offence and is liable on conviction to a fine not exceeding $500 or imprisonment for a term not exceeding 6 months or both.

Breach of oath

151. A Police staff who makes an oath or affirmation under section 16 and breaches the oath or affirmation commits an offence and is liable on conviction to—

(a) imprisonment for a term not exceeding 5 years; or

(b) if such breach is for the purpose of committing, assisting any other person to commit or allowing the commission of an offence, imprisonment for a term not exceeding 10 years.

Failure to assist Police

152.—(1) A Police officer in the lawful execution of his or her duty may, if it is reasonably necessary in the circumstances, request a person above the age of 18 years to assist the officer to—

(a) arrest or secure a person who the officer is lawfully authorised to arrest or secure;

(b) convey a person in the Police officer's charge to a police station or other place;

(c) prevent the escape of a person whom the officer is authorised to arrest;

(d) re-arrest a person who has escaped from lawful custody;

(e) prevent or suppress a breach of the peace; or

(f) prevent any attempt to damage public property.

(2) A person who, without reasonable excuse, fails to aid or assist the Police officer when asked commits an offence and is liable to a fine not exceeding $5,000.

PART 11—GENERAL ADMINISTRATION OF THE FORCE

Division 1—Police property

Identity documents

153.—(1) The Commissioner must issue a member of Police staff with an approved identity document or any other form of identity and in the approved form.

(2) The identity document or other form of identity is evidence of the appointment of the member of Police staff under this Act.

(3) The identity document must state the following—

(a) the name of the member of Police staff;

(b) if the member is a Police officer, that he or she is an officer and his or her rank; and

(c) if the member is a special constable—

(i) that he or she is a special constable;

(ii) the member's category of special constable; and

(iii) the specific powers of a special constable that he or she has been granted by the Commissioner under section 14.

(4) A Police officer and special constable must carry the identity document with him or her when—

(a) performing a function under this Act; or

(b) exercising a power under this Act,

and, when doing so, must present the identity document to any person upon request.

(5) A person visiting Police premises may be required to provide, or submit to the taking of, identification.

Police property

154.—(1) The Commissioner may prescribe—

(a) Police property which may be issued to a Police staff and a Police associate for a lawful purpose; and

(b) the proper use, handling, storage and maintenance of the property.

(2) Police property includes protective equipment, body cameras and aerial drones.

Use and custody of Police property

155.—(1) A member of Police staff issued with Police property must maintain the property and must not lend, or give the property to any other person, or part with it in any way without the authority of the Commissioner.

(2) A Police staff issued with Police property must use the property for the lawful purpose it was issued.

(3) A Police staff must as soon as practicable, notify his or her supervisor of any theft, damage, destruction, or loss of Police property issued to him or her.

(4) A Police staff issued with Police property must return the property at the end of his or her period of service.

(5) A Police staff who contravenes—

(a) subsection (2), commits an offence and is liable on conviction to a fine not exceeding $5,000 or imprisonment for a term not exceeding 5 years or both; and

(b) subsections (1) and (3), must be disciplined under this Act.

(6) A Police staff who contravenes subsection (4)—

(a) commits an offence and is liable on conviction to a fine not exceeding $5,000 or imprisonment for a term not exceeding 5 years or both; and

(b) is liable to pay to the Force the value of the Police property he or she fails to return at the end of his or her period of service.

(7) The value of any Police property not delivered up in accordance with subsection (4) is to be—

(a) determined by the court, after a conviction under subsections (5) or (6);

(b) provided by the Commissioner; and

(c) recoverable as a fine.

(8) Notwithstanding subsections (5) or (6), the Commissioner may allow a Police staff to make payment in the amount as may be determined by the Commissioner if the Police staff fails to return Police property.

Loss and damage to Police property

156.—(1) If a Police staff—

(a) pawns;

(b) sells;

(c) loses by neglect;

(d) makes away with; or

(e) wilfully or by neglect damages,

Police property or any government property supplied to him or her, the Commissioner may require the member of Police staff to pay to the Force the value of the loss or damage by deductions from the Police staff's salary.

(2) This section applies in addition to and despite any other penalty, punishment or consequence.

Protection of Police staff acting under court processes

157.—(1) A Police staff acting under a court process is not responsible for any irregularity, or any lack of jurisdiction, in its issue.

(2) This section applies to an action if—

(a) it is an action against a member of Police staff in respect of an acts done in obedience to a court process;

(b) the process is produced;

(c) it is proved that—

(i) the process was issued out of a court; or

(ii) the signature on the process is in the handwriting of the person whose name appears on it, and that the person is, is reputed to be or acts as a judicial officer; and

(d) it is proved that the acts were done in accordance with the process.

(3) If subsection (2) applies to an action,—

(a) the court must enter a verdict for the member of Police staff concerned; and

(b) the member of Police staff may recover his or her costs.

Protection of informers

158.—(1) Except as provided in subsection (2)—

(a) information for an informer protected offence must not be admitted in evidence in any civil or criminal proceeding; and

(b) a witness in any civil or criminal proceeding is not obliged to—

(i) disclose the name or address of any informer who has given information to the Police with respect to an informer protected offence or of any person who has assisted the Police in any way in relation to the offence; or

(ii) answer any question if the answer will lead to discovery of the name or address of the informer,

if, in either case, the informer or person is not himself or herself a witness in such proceeding.

(2) If a document produced in a civil or criminal proceeding contains information that identifies, or could identify an informer, the court must conceal or remove that information as necessary to protect that persons identity.

(3) If, in any proceeding before a court for an informer protected offence, the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he or she knew or believed to be false or did not believe to be true, the court may permit inquiry and require full disclosure concerning the informer or person.

(4) If in any other proceeding a court is of opinion that justice cannot be fully achieved between the parties without disclosure of the name of an informer or a person who has assisted the Police, the court may permit inquiry and require full disclosure concerning the informer or person

Division 2—Audit and reporting

Audit

159. The Commissioner must cause the accounts and financial statements of the Force to be audited by an auditor authorised by the Auditor-General.

Annual report

160.—(1) The Commissioner must prepare and submit an annual report to the Minister.

(2) Subject to subsection (3) but not limited to any other requirement, the report must contain, —

(a) the use of the allocated budget of the Fiji Police Force;

(b) the performance of the Force during the relevant year;

(c) the audited accounts and financial statements under section 159;

(d) a report on community policing initiatives under Part 9; and

(e) data pertaining to complaints made to and arrests made by the Police, criminal cases investigated, charged and prosecuted and disciplinary action taken by the Police.

(3) Sections 49 and 50 of the Financial Management Act 2004 apply.

(4) The Commissioner must ensure that the—

(a) annual report is made available to the public on the Fiji Police Force website; and

(b) data in subsection (2)*(e)* is made readily available on the website and updated at least quarterly.

PART 12—MISCELLANEOUS

Protection from liability

161.—(1) No civil or criminal proceedings lie against any Police officer for any act done or not done by the Police officer—

(a) in good faith; and

(b) in obedience to a warrant, summons or order that is or appears to be lawfully issued.

(2) No civil or criminal proceedings lie against any Police officer or the Force for any act done or not done by a person impersonating a Police officer or the Force, or by a person purporting an affiliation with the Force in breach of this Act, resulting in loss or damage to any third party.

Act to prevail

162. This Act has effect despite any provision of any other written law and if there is any inconsistency between this Act and any other written law, this Act prevails.

Regulations

163.—(1) The Minister may make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

(2) Without limiting subsection (1), the Minister may make regulations to prescribe—

(a) written laws to be enforced by the Force as provided under section 7;

(b) the form for and manner of applications which may be made under this Act;

(c) the form of warrants issued under this Act;

(d) an urgent search offence under Part 5, Division 4, Subdivision 3;

(e) the penalty threshold for an offence to be a crime scene threshold offence under Part 5, Division 7;

(f) a covert operation offence under Part 5, Division 5;

(g) a stop departure offence under Part 5, Division 6;

(h) the maximum post-search application period for a post-search approval order as provided under section 53(1);

(i) the general rules for carrying out forensic procedures including the manner in which a forensic sample may be taken and handled;

(j) the prohibition on the use, or dissemination of information in respect of any personal detail or forensic sample or photographs obtained under this Act;

(k) the period for which identifying particulars or forensic samples obtained under this Act may be kept;

(l) the procedures and period for which records, in any form, of forensic procedures, identifying particulars or forensic samples obtained under this Act may be kept;

(m) the authority and guidelines for and method of disposal of identifying particulars or forensic samples obtained under this Act;

(n) on the recommendation of the Commissioner, the code of conduct for Police staff;

(o) the period in which a person may, under section 129(1), appeal a decision of the ad hoc internal tribunal to the Commissioner;

(p) authority, functions or responsibilities of the Tribunal in addition to those prescribed under section 130(6);

(q) the purpose for which the Commissioner may make an authorisation under section 145(2);

(r) informer protected offences under section 158 and a protection framework for informers, which may include safe-houses and family protection; and

(s) requirements for the keeping of records.

(3) The regulations made under this Act must not provide for matters which are to be prescribed under section 164.

Standing orders

164.—(1) The Commissioner may make standing orders the Commissioner considers appropriate for the governance and administration of Police staff and to prevent negligence and promote efficiency and discipline of Police staff in the discharge of their duties and functions.

(2) Without limiting subsection (1), the Commissioner may make standing orders to prescribe—

(a) the ranks and hierarchies within those ranks for Police officers and special constables;

(b) the rank of a senior officer for the purposes of administering, witnessing and certifying an oath under section 16;

(c) the course, method, form and regularity of instruction for training of prospective or actual Police staff under section 26;

(d) the salaries, benefits and allowances of Police staff;

(e) performance-based increments for Police staff;

(f) the clothing or uniform, equipment and property of Police staff;

(g) the distribution, deployment and inspection of Police staff;

(h) the description and issue of arms, ammunition, equipment, clothing and other appointments to be supplied to Police officers and special constables;

(i) the use of arms and the training and certification requirements for their use;

(j) the rules for the proper handling of arms and ammunition;

(k) reporting procedures for the use of arms and ammunition;

(l) the prescribed profession for a Police associate as provided under section 20(2);

(m) the rules of procedure for the trial of offences against discipline;

(n) the maximum period in which a complaint may be investigated under section 127;

(o) the range and types of penalties to be imposed and measures to be taken in relation to an offence against discipline as provided under section 128(3);

(p) a different compulsory retirement age for a member of Police staff as provided under section 134;

(q) the health standard for Police officers and special constables as required under section 136(1)*(a)*;

(r) the area in which divisional Police command has jurisdiction for community policing initiatives under section 139;

(s) the area in which a police station has jurisdiction for community policing initiatives under section 140;

(t) the area in which a police post has jurisdiction for community policing initiatives under section 141;

(u) the control, administration and application of the Police Rewards and Fines Fund.

(3) Standing orders made under this section in relation to the use of arms must be consistent with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Repeal

165. The Police Act 1965 is repealed.

Transitions and savings

166.—(1) Any oath sworn or affirmed by a member of Police staff in accordance with the repealed Act is deemed to have been an oath sworn or affirmed by the member in accordance with this Act if the member is, immediately before the commencement of this Act, a member of Police staff.

(2) Any appointment of a member of Police staff made in accordance with the repealed Act and, immediately before the commencement of this Act, remains valid and continues in effect until such time the appointment expires or is terminated under this Act, whichever is earlier.

(3) An order of the President or Minister under Part 7 of the repealed Act, in effect immediately before the commencement of this Act, is deemed to have been made by the Minister or the Commissioner under Part 7, Division 4.

(4) Any disciplinary matter for an offence against discipline relating to conduct that occurred before the commencement of this Act must be dealt with in accordance with the applicable provisions of the repealed Act as though those provisions were still in force.

Transitional arrangements for forensic science

167.— (1) The forensic science functions performed under this Part are intended to operate on a transitional basis under the Fiji Police Force.

(2) The Minister must, within 3 years after the commencement of this Act, or such longer period as the Minister may determine by notice in the Gazette, take the necessary steps to establish an independent forensic science entity to perform the forensic science functions under this Part.

(3) The independent forensic science entity established under subsection (2) must be operationally and scientifically independent of the Fiji Police Force and free from direction or interference by—

(a) the Commissioner of Police;

(b) any Minister or political office holder; or

(c) any other person or body,

in relation to the scientific method, technical analysis, interpretation of results, or the content of any forensic report or opinion.

(4) Until the independent forensic science entity is established and assumes responsibility for forensic science functions, the independence safeguards in section 118A continue to apply.

(5) The Minister may make regulations providing for—

(a) the transfer of forensic science functions, staff, assets, and records from the Fiji Police Force to the independent forensic science entity;

(b) transitional arrangements for ongoing cases and forensic material; and

(c) any other matter necessary or convenient to give effect to the progressive phasing out of forensic science functions from the Fiji Police Force.

Consequential amendments

168.—(1) Section 277 of the Crimes Act 2009 is amended by—

(a) in paragraph *(b)*—

(i) after "Police officer", inserting "or special constable";

(ii) after "an officer", inserting "or constable"; and

(b) for the penalty paragraph, in paragraph *(b)*, after "Police officer" wherever it appears, inserting "or special constable".

(2) Section 8 of the Bail Act 2002 is amended by—

(a) in subsection (1), deleting "the arresting officer, or the officer in charge of the police station," and substituting "a Police officer of or above the rank of corporal at the police station"; and

(b) in subsection (2), deleting "A Police officer" and substituting "The Police officer".

SCHEDULE
(Section 16)

OATH OR AFFIRMATION

"I, [*name*], swear that I will bear true allegience to the Republic of Fiji, faithfully and diligently serve the Fiji Police Force, without favour or affection, malice or ill-will. While a member of Police staff, I will, to the best of my power, keep the peace and prevent offences against the peace, I will not disclose any confidential information that comes to my knowledge by reason of my office and will, to the best of my skill and knowledge, perform all the duties of the office according to law."

Passed by the Parliament of the Republic of Fiji this 5th day of November 2026.

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