

## CRIMES AMENDMENT BILL (NO. 2)

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### AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

THIS bill was formerly part of the Harassment and Criminal Associations Bill as reported from the Justice and Law Reform Committee. The committee of the whole House has divided the bill as follows:

- The Harassment Bill, comprising Parts 1 to 4
  - This bill, comprising Part 5 and Schedule 1A
  - The Criminal Justice Amendment Bill (No. 2), comprising Part 6
  - The Local Government Amendment Bill (No. 4), comprising Part 7
  - The Misuse of Drugs Amendment Bill (No. 2), comprising Part 8
  - The Summary Offences Amendment Bill, comprising Part 9 and Schedules 2A and 3
  - The Telecommunications Amendment Bill, comprising Part 10
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KEY TO SYMBOLS USED IN REPRINTED BILL  
AS REPORTED FROM A SELECT COMMITTEE

*Struck Out (Majority)*

Subject to this Act,

Text struck out by a majority

*New (Majority)*

Subject to this Act,

Text inserted by a majority

<Subject to this Act,>

Words struck out by a majority

<Subject to this Act,>

Words inserted by a majority

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

((Subject to this Act,))

Words struck out

Subject to this Act,

Words inserted

CRIMES AMENDMENT (NO. 2)

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SCHEDULE 1A  
Amendments to Other Enactments

## A BILL INTITULED

**An Act to amend the Crimes Act 1961**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Crimes Amendment Act (No. 2) 1997, and is part of the Crimes Act 1961 (“the principal Act”).

(2) This Act (other than sections 38, 38A, 38C, 38D, 52A to 54, and section 55A) comes into force on 1 February 1998.

(3) Sections 38, 38A, 38C, 38D, 52A to 54, and section 55A come into force on 1 January 1998.

**38. New heading and section inserted**—The principal Act is amended by inserting in Part XI, after section 98, the following heading and section:

*“Participation in Criminal Gang*

*Struck Out (Majority)*”

**98A. Participation in criminal gang**—(1) In this section—

“‘Criminal conduct’ means any conduct that amounts to an offence or offences punishable by imprisonment:

“‘Criminal gang’ means any ongoing organisation, association, or group (whether formal or informal) of 3 or more persons, at least 3 of whom individually or collectively have engaged in a pattern of serious offending:

“‘Pattern of serious offending’ means the commission or attempted commission of 3 or more serious offences on separate occasions, at least one of which occurred within the last year:

“‘Serious offence’ means—

“(a) An offence punishable by a period of imprisonment for a term of 10 years or more; or

“(b) An offence against any of the following provisions of this Act:

“(i) Section 116 (conspiring to defeat justice):

“(ii) Section 117 (corrupting juries and witnesses):

“(iii) Section 188 (2) (wounding with intent to injure):

*Struck Out (Majority)*

- 5 “(iv) Section 189 (2) (injuring with intent to injure):  
“(v) Section 227 (ba) (theft):  
“(vi) Section 257A (money laundering):  
“(vii) Section 258 (receiving property dishonestly  
obtained); or  
“(c) An offence against section 6 of the Misuse of  
Drugs Act 1975.  
“(2) Every one is liable to imprisonment for a term not  
10 exceeding 3 years who—  
“(a) Participates in any criminal gang knowing that members  
of the gang have committed any serious offence;  
and  
“(b) Intentionally promotes or furthers any criminal conduct  
15 by members of that gang.  
“(3) In any prosecution for an offence against **subsection (2)** of  
this section—  
“(a) It is not necessary for the prosecution to prove that the  
accused knew or intended that any particular  
20 offence would be committed by members of the  
criminal gang:  
“(b) It is not necessary for the prosecution to prove that the  
accused promoted or furthered the commission of  
any particular offence:  
25 “(c) It is not necessary for the prosecution to prove that the  
accused has committed any other offence, or that  
the accused was a party within the meaning of  
section 66 of this Act to any particular offence  
committed by any other person.”

30 *New (Majority)*

- “98A. **Participation in criminal gang**—(1) In this  
section,—  
“ ‘Criminal gang’ means any organisation, association, or  
group (whether formal or informal) of 3 or more  
35 persons where—  
“(a) At least 3 of the members have each been  
convicted of the commission or attempted  
commission of at least 1 serious offence (together

*New (Majority)*

referred to in **paragraphs (b) and (c)** as the 3 qualifying offences); and

“(b) The 3 qualifying offences were committed on separate occasions; and

“(c) At least 1 of the qualifying offences was committed within the 3 years immediately preceding the alleged commission of the offence under this section:

“ ‘Member’ includes any person—

“(a) Who is a prospective or associate member of a gang; or

“(b) Who acts at the direction of, or in association with, any member of a gang:

“ ‘Serious offence’ means—

“(a) An offence punishable by a period of imprisonment for a term of 10 years or more; or

“(b) An offence against any of the following provisions of this Act:

“(i) Section 116 (conspiring to defeat justice):

“(ii) Section 117 (corrupting juries and witnesses):

“(iii) Section 188 (2) (wounding with intent):

“(iv) Section 189 (2) (injuring with intent):

“(v) Section 191 (2) (aggravated injury):

“(vi) Section 227 (ba) (theft):

“(vii) Section 257A (money laundering):

“(viii) Section 258 (receiving property dishonestly obtained); or

“(c) An offence against section 6 of the Misuse of Drugs Act 1975; or

“(d) An offence against section 54 or section 55 of the Arms Act 1983.

“(2) Every one is liable to imprisonment for a term not exceeding 3 years who—

“(a) Participates in any criminal gang knowing that it is a criminal gang; and

“(b) Intentionally promotes or furthers any conduct by any member of that gang that amounts to an offence or offences punishable by imprisonment.

“(3) In any prosecution for an offence against **subsection (2)**, it is not necessary for the prosecution to prove for the purposes of either **paragraph (a) or paragraph (b)** of that subsection that the

*New (Majority)*

accused has committed any other offence, or that the accused was a party within the meaning of section 66 to any particular offence committed by any other person.

5 “(4) In any prosecution for any offence against **subsection (2)**, it is not necessary for the prosecution to prove for the purposes of **paragraph (b)** of that subsection that—

“**(a)** The accused knew or intended that any particular offence would be committed by any member of the  
10 criminal gang:

“**(b)** The accused promoted or furthered the commission of any particular offence:

“**(c)** Any member has been convicted of any offence in respect of particular conduct.

15 “(5) Without limiting the manner in which the prosecution can prove that the accused knew that the gang was a criminal gang, it is sufficient if the prosecution proves that a member of the Police had warned the accused on at least 2 separate occasions that the gang was a criminal gang.”

20 **38A. Powers in respect of crime against section 202A—**  
Section 202B of the principal Act (as inserted by section 48 (1) of the Summary Offences Act 1981) is amended by inserting, after subsection (2), the following subsections:

25 “(2A) If it is necessary for any constable to stop a vehicle for the purpose of exercising the power conferred by subsection (1) (a) to search a person who is in the vehicle, **sections 314B to 314D** apply with any necessary modifications as if references in those sections to a statutory search power are references to subsection (1) (a).

30 “(2B) Despite **section 314A**, **sections 314B to 314D** apply to the exercise of the power to stop a vehicle conferred by subsection (1) (b).”

**38B. Prohibition on use of listening devices—**  
(1) Section 216B of the principal Act (as inserted by section 2 of the Crimes Amendment Act 1979) is amended by repealing  
35 subsection (2), and substituting the following subsection:

“(2) Subsection (1) does not apply where the person intercepting the private communication—

“(a) Is a party to that private communication; or

*New (Majority)*

- “(b) Does so pursuant to, and in accordance with the terms of, any authority conferred on him or her by or under—
- “(i) Part XIA of this Act; or 5
- “(ii) Part I of the Telecommunications Act 1987; or
- “(iii) The New Zealand Security Intelligence Service Act 1969; or
- “(iv) The Misuse of Drugs Amendment Act 1978; 10
- or
- “(v) The International Terrorism (Emergency Powers) Act 1987.”
- (2) Section 216B of the principal Act (as so inserted) is amended— 15
- (a) By omitting from subsection (3) the expression “, other than a telephonic communication,”;
- (b) By omitting from subsection (3) (b) the expression “(other than a telephonic communication)”.
- (3) The following enactments are consequentially repealed: 20
- (a) Section 10 (2) of the Telecommunications Act 1987:
- (b) Section 22 of the International Terrorism (Emergency Powers) Act 1987.
- 38c. Power of search for goods stolen or unlawfully obtained in transit**—Section 227A of the principal Act (as inserted by section 48 (3) of the Summary Offences Act 1981) is amended by adding the following subsections: 25
- “(2) If it is necessary for any constable to stop a vehicle for the purpose of exercising the power conferred by subsection (1) to search a person who is in the vehicle, **sections 314B to 314D** apply with any necessary modifications as if references in those sections to a statutory search power are references to the power to search a person under subsection (1). 30
- “(3) **Subsection (2)** does not limit the application of **sections 314A to 314D** in respect of the stopping of any vehicle for the purpose of exercising the power to search the vehicle under subsection (1). 35
- “(4) Any constable conducting a search under subsection (1) may use reasonable force, if necessary,—
- “(a) To break open any container, package, or receptacle:
- “(b) To effect entry to any aircraft, hovercraft, ship or ferry 40
- or other vessel, train, or vehicle.”



*New (Majority)*

5     **38D. Power to search vehicles for goods stolen or obtained by crimes involving dishonesty**—The principal Act is amended by inserting, after section 227A (as so inserted), the following section:

10     “227B. (1) Any member of the Police who has reasonable grounds for believing that any property that is stolen or obtained by a crime involving dishonesty is in or on any vehicle may, without warrant, search the vehicle for the purpose of locating that property.

   “(2) Any member of the Police conducting a search under **subsection (1)** may use reasonable force, if necessary, to effect entry to the vehicle.

15     “(3) During a search under **subsection (1)**, any member of the Police may seize any property that is—

   “(a) Stolen or obtained by a crime involving dishonesty; and

   “(b) Found in or on the vehicle.

20     “(4) Every member of the Police (~~conducting a search under **subsection (1)** must, on first entering the vehicle,~~) must, before conducting a search under **subsection (1)**,—

   “(a) Identify himself or herself to any person in or on the vehicle; and

25     “(b) If he or she is not in uniform and if so required, produce evidence that he or she is a member of the Police; and

   “(c) Tell any person in or on the vehicle that the search is being conducted under this section.”

30     **39. New heading and section substituted**—The principal Act is amended by repealing section 312A (as inserted by section 4 of the Crimes Amendment Act (No. 2) 1987), and substituting the following heading and section:

*“Interpretation*

   “312A. **Interpretation**—(1) In this Part, unless the context otherwise requires,—

*New (Majority)*

“ ‘Intercept’, in relation to a private communication, includes hear, listen to, record, monitor, or acquire the communication while it is taking place:

“ ‘Listening device’—

“(a) Means any electronic, mechanical, or electromagnetic instrument, apparatus, equipment, or other device that is used or is capable of being used to intercept a private communication; but

“(b) Does not include a hearing aid or similar device used to correct subnormal hearing of the user to no better than normal hearing:

“ ‘Organised criminal enterprise’ means a continuing association of 3 or more persons having as its object or as one of its objects the acquisition of substantial income or assets by means of a continuing course of criminal conduct:

*New (Majority)*

“ ‘Private communication’—

“(a) Means any oral communication made under circumstances that may reasonably be taken to indicate that any party to the communication desires it to be confined to the parties to the communication; but

“(b) Does not include such a communication occurring in circumstances in which any party ought reasonably to expect that the communication may be intercepted by some other person not having the express or implied consent of any party to do so:

“ ‘Serious violent offence’ means any offence—

“(a) That is punishable by a period of imprisonment for a term of 7 years or more; and

“(b) Where the conduct constituting the offence involves—

“(i) Loss of a person’s life or serious risk of loss of a person’s life; or

“(ii) Serious injury to a person or serious risk of serious injury to a person; or

“(iii) Serious damage to property in circumstances endangering the physical safety of any person; or

5 “(iv) Perverting the course of justice, where the purpose of the conduct is to prevent, seriously hinder, or seriously obstruct the detection, investigation, or prosecution of any offence—

10 “(A) That is punishable by a period of imprisonment for a term of 7 years or more; and

“(B) That involved, involves, or would involve conduct of the kind referred to in any of **subparagraphs (i) to (iii)**:

15 “ ‘Specified offence’ means any of the following offences:

“(a) An offence punishable by a period of imprisonment for a term of 10 years or more:

20 “(b) An offence against section 116 (which relates to conspiring to defeat justice):

“(c) An offence against section 117 (which relates to corrupting juries and witnesses):

“(d) An offence punishable under section 227 (ba) (theft of an object exceeding \$300 in value):

25 “(e) An offence against section 257A (which relates to money laundering):

“(f) An offence against section 258 (which relates to receiving property dishonestly obtained).

*New (Majority)*

30 “(2) A reference in this Part to a party to a private communication is a reference to—

“(a) Any originator of the communication and any person intended by the originator to receive it; and

35 “(b) A person who, with the express or implied consent of any originator of the communication or any person intended by the originator to receive it, intercepts the communication.”

40 **40. New heading inserted**—The principal Act is amended by inserting, immediately before section 312B (as so inserted), the heading “*Applications for Interception Warrants in Relation to Organised Criminal Enterprises*”.

**41. Application by Police for warrant to intercept private communications**—(1) Section 312B of the principal Act (as so inserted) is amended by repealing subsection (1) (a), and substituting the following paragraph:

“(a) Any member of an organised criminal enterprise is 5  
planning, participating in, or committing, or has  
planned, participated in, or committed, criminal  
offences of which at least one is a specified offence,  
as part of a continuing course of criminal conduct  
planned, organised, or undertaken by members of 10  
that enterprise; and”.

(2) Section 312B of the principal Act (as so inserted) is amended by omitting from subsection (2) (a) (ii) the words “an offence described in subsection (1) (a) of this section”, and substituting the words “a specified offence”. 15

**42. Matters on which Judge must be satisfied in respect of applications**—(1) Section 312C of the principal Act (as so inserted) is amended by omitting from paragraph (a) (ii) the words “an offence described in section 312B (1) (a) of this Act”, and substituting the words “a specified offence”. 20

(2) Section 312C of the principal Act (as so inserted) is amended by adding, as subsection (2), the following subsection:

“(2) Without limiting subsection (1), in determining whether or not to issue an interception warrant under this section, the Judge must consider the extent to which the privacy of any person or persons would be likely to be interfered with by the interception, under the warrant, of private communications.” 25

**43. New heading and sections inserted**—The principal Act is amended by inserting, after section 312C (as so inserted), the following heading and sections: 30

*“Applications for Interception Warrants in Relation to Serious  
Violent Offences*

**“312CA. Application by Police for warrant to intercept private communications in relation to serious violent offences**—(1) An application may be made in accordance with this section to a Judge of the High Court for a warrant for any member of the Police to intercept a private communication by means of a listening device in any case where there are reasonable grounds for believing that,— 35

“(a) A serious violent offence has been committed, or is 40  
being committed, or is about to be committed; and

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“(b) Either,—

5 “(i) Three or more people were involved, or are involved, or will be involved, in the commission of that serious violent offence, whether that involvement was, or is, or will be, as the principal offender or as a party to the offence or as an accessory after the fact to the offence; or

10 “(ii) Where that serious violent offence has yet to be committed, the use of a listening device to intercept private communications is likely to prevent the commission of the offence; and

*New (Majority)*

15 “(b) Where that serious violent offence has yet to be committed, the use of a listening device to intercept private communications is likely to prevent the commission of the offence; and

20 “(c) It is unlikely that the Police investigation of the case could be brought to a successful conclusion or, as the case may be, the commission of the serious violent offence prevented, without the granting of such a warrant.

25 “(2) Every application under **subsection (1)** must be made by a commissioned officer of Police, in writing, and on oath, and must set out the following particulars:

“(a) The facts relied on to show that there are reasonable grounds for believing that,—

30 “(i) A serious violent offence has been committed, or is being committed, or is about to be committed; and

*Struck Out (Majority)*

“(ii) Either,—

35 “(A) Three or more people were involved, or are involved, or will be involved, in the commission of that serious violent offence, whether that involvement was, or is, or

*Struck Out (Majority)*

will be, as the principal offender or as a party to the offence or as an accessory after the fact to the offence; or

“(B) Where that serious violent offence has yet to be committed, the use of a listening device to intercept private communications is likely to prevent the commission of the offence; and

*New (Majority)*

“(ii) Where that serious violent offence has yet to be committed, the use of a listening device to intercept private communications is likely to prevent the commission of the offence; and

“(b) A description of the manner in which it is proposed to intercept private communications; and

“(c) Either,—

“(i) The name and address, if known, of the suspect the interception of whose private communications there are reasonable grounds for believing will assist the Police investigation of the case or, as the case may be, prevent the commission of a serious violent offence; or

“(ii) If the name and address of the suspect are not known, a general description of the premises or place in respect of which it is proposed to intercept private communications, being premises or a place believed to be used for any purpose by any person—

“(A) Whom it is believed has committed, or is committing, or is about to commit, a serious violent offence; or

“(B) Whom it is believed was involved, or is involved, or will be involved, in the commission of a serious violent offence; and

“(d) The period for which a warrant is requested; and

“(e) Whichever of the following is applicable:

5 “(i) The other investigative procedures and techniques that have been tried but have failed to facilitate the successful conclusion of the Police investigation of the case or, as the case may be, to provide assistance in preventing the commission of a serious violent offence, and the reasons why they have failed in that respect; or

10 “(ii) The reasons why it appears that other investigative procedures and techniques are unlikely to facilitate the successful conclusion of the Police investigation of the case, or, as the case may be, prevent the commission of a serious violent offence, or are likely to be too dangerous to adopt in the particular case; or

15 “(iii) The reasons why it is considered that the case is so urgent that it would be impractical to carry out the Police investigation using only investigative procedures and techniques other than the interception of private communications.

20 “312CB. **Matters on which Judge must be satisfied in respect of applications relating to serious violent offences**—(1) On an application made in accordance with section 312CA, the Judge may grant an interception warrant if the Judge is satisfied that it would be in the best interests of the  
25 administration of justice to do so, and that—

“(a) There are reasonable grounds for believing that,—

“(i) A serious violent offence has been committed, or is being committed, or is about to be committed; and

30 *Struck Out (Majority)*

“(ii) Either,—

35 “(A) Three or more people were involved, or are involved, or will be involved, in the commission of that serious violent offence, whether that involvement was, or is, or will be, as the principal offender or as a party to the offence or as an accessory after the fact to the offence; or

40 “(B) Where that serious violent offence has yet to be committed, the use of a listening device to intercept private communications is

*Struck Out (Majority)*

likely to prevent the commission of the offence; and

*New (Majority)*

“(ii) Where that serious violent offence has yet to be committed, the use of a listening device to intercept private communications is likely to prevent the commission of the offence; and

- “(b) There are reasonable grounds for believing that,—
- “(i) Evidence relevant to the investigation of the case will be obtained through the use of a listening device to intercept private communications; or
- “(ii) Where the serious violent offence has yet to be committed, evidence relevant to the prevention of that offence will be obtained through the use of a listening device to intercept private communications; and
- “(c) Whichever of the following is applicable:
- “(i) Other investigative procedures and techniques have been tried but have failed to facilitate the successful conclusion of the Police investigation of the case or, as the case may be, to provide assistance in preventing the commission of a serious violent offence; or
- “(ii) Other investigative procedures and techniques are unlikely to facilitate the successful conclusion of the Police investigation of the case, or, as the case may be, prevent the commission of a serious violent offence, or are likely to be too dangerous to adopt in the particular case; or
- “(iii) The case is so urgent that it would be impractical to carry out the Police investigation using only investigative procedures and techniques other than the interception of private communications; and
- “(d) The private communications to be intercepted are not likely to be privileged in proceedings in a court of law by virtue of any of the provisions of Part III of the Evidence Amendment Act (No. 2) 1980 or of



any rule of law that confers privilege on communications of a professional character between a barrister or solicitor and a client.

5 “(2) Without limiting subsection (1), in determining whether or not to issue an interception warrant under this section, the Judge must consider the extent to which the privacy of any person or persons would be likely to be interfered with by the interception, under the warrant, of private communications.”

10 **44. New heading inserted**—The principal Act is amended by inserting, immediately before section 312D (as so inserted), the heading “*General Provisions*”.

**45. Contents and term of warrant—**

*Struck Out (Majority)*

15 [ (1) Section 312D of the principal Act (as so inserted) is amended by inserting in subsection (1), before the word “form”, the word “appropriate”. ]

*New (Majority)*

20 [ (1) Section 312D of the principal Act (as so inserted) is amended by omitting the words “form set out in the Sixth Schedule to this Act”, and substituting the words “prescribed form”. ]

25 (2) Section 312D of the principal Act (as so inserted) is amended by repealing subsection (1) (b), and substituting the following paragraph:

“(b) State,—

30 “(i) In the case of a warrant granted pursuant to section 312B, the name and address of the suspect, if known, whose private communications may be intercepted, or, where the suspect’s name and address are not known, the premises or place in respect of which private communications may be intercepted, being premises or a place believed to be used for any purpose by any member of the  
35 organised criminal enterprise; or

“(ii) In the case of a warrant granted pursuant to **section 312CB**, the name and address of the suspect, if known, whose private communications may be intercepted, or, where the suspect’s name and address are not known, the premises or place in respect of which private communications may be intercepted, being premises or a place believed to be used for any purpose by any person—

“(A) Whom it is believed has committed, or is committing, or is about to commit, a serious violent offence; or

“(B) Whom it is believed was involved, or is involved, or will be involved, in the commission of a serious violent offence; and”.

**46. Renewal of warrants**—Section 312F of the principal Act (as so inserted) is amended—

- (a) By inserting in subsection (2), after the expression “section 312B”, the expression “or, as the case requires, **section 312CA**”:
- (b) By inserting in subsection (4), after the expression “section 312C”, the expression “or, as the case requires, **section 312CB**”.

**47. Emergency permits**—Section 312G of the principal Act (as so inserted) is amended—

- (a) By inserting in subsection (1), after the expression “section 312C”, the expression “or, as the case requires, **section 312CB**”:
- (b) By repealing subsection (2):
- (c) By inserting in subsection (3), after the expression “section 312B”, the expression “or, as the case requires, **section 312CA**”:
- (d) By inserting in subsection (9), after the expression “section 312C”, the expression “or, as the case requires, **section 312CB**”.

**48. Destruction of irrelevant records made by use of listening device**—Section 312I of the principal Act (as so inserted) is amended by repealing subsection (1), and substituting the following subsection:

“(1) Every person who intercepts a private communication in pursuance of an interception warrant or any emergency permit must, as soon as practicable after it has been made, destroy

any record, whether written or otherwise, of the information obtained by that interception if none of the information directly or indirectly relates to—

- 5 “(a) The commission of a specified offence or a conspiracy to commit such an offence; or
- “(b) The commission of a serious violent offence or a conspiracy to commit such an offence; or
- 10 “(c) A drug dealing offence or a **prescribed cannabis offence** (as those terms are defined in section 10 of the Misuse of Drugs Amendment Act 1978).”

**49. Destruction of relevant records made by use of listening device**—Section 312J of the principal Act (as so inserted) is amended by repealing subsection (1), and substituting the following subsection:

- 15 “(1) The Commissioner of Police must ensure that every record, whether written or otherwise, of the information obtained by the Police from the interception of a private communication in pursuance of an interception warrant or an emergency permit, being information that relates wholly or
- 20 partly and directly or indirectly to—
- “(a) The commission of a specified offence or a conspiracy to commit such an offence; or
- “(b) The commission of a serious violent offence or a conspiracy to commit such an offence; or
- 25 “(c) A drug dealing offence or a **prescribed cannabis offence** (as those terms are defined in section 10 of the Misuse of Drugs Amendment Act 1978),—
- 30 is destroyed as soon as it appears that no proceedings, or no further proceedings, will be taken in which the information would be likely to be required to be produced in evidence.”

**50. Inadmissibility of evidence of private communications unlawfully intercepted**—Section 312M of the principal Act (as so inserted) is amended by repealing subsection (2), and substituting the following subsection:

35 *Struck Out (Majority)*

- “(2) Where, in any criminal proceedings for—
  - “(a) A specified offence, or a conspiracy to commit such an offence; or
  - 40 “(b) A serious violent offence, or a conspiracy to commit such an offence,—

*Struck Out (Majority)*

the Court is of the opinion that any evidence that is inadmissible by virtue of subsection (1) of this section—

“(c) Is relevant; and

“(d) Is inadmissible by virtue of that subsection merely because of a defect of form or an irregularity in procedure, not being a substantive defect or irregularity, in the application for or the granting of the interception warrant or emergency permit, or in the manner in which the evidence was obtained,— and that the defect in form or irregularity in procedure was not the result of bad faith, the Court may admit that evidence.”

*New (Majority)*

“(2) Even though certain evidence is inadmissible in criminal proceedings by virtue of subsection (1), a Court may admit that evidence if the following conditions are satisfied:

“(a) The proceedings are for—

“(i) A specified offence, or a conspiracy to commit a specified offence; or

“(ii) A serious violent offence, or a conspiracy to commit such an offence; and

“(b) The evidence is relevant; and

“(c) The evidence is inadmissible by virtue of subsection (1) merely because of a defect in form, or an irregularity in procedure, in—

“(i) The application for or the granting of the interception warrant or emergency permit; or

“(ii) The manner in which the evidence was obtained; and

“(d) The defect in form or irregularity in procedure—

“(i) Was not substantive; and

“(ii) Was not the result of bad faith.”

**51. Inadmissibility of evidence of private communications lawfully intercepted**—(1) Section 312N of the principal Act (as so inserted) is amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to subsection (2), where a private communication intercepted in pursuance of an interception warrant or an emergency permit discloses evidence relating to any offence other than—

5 “(a) A specified offence, or a conspiracy to commit such an offence; or

“(b) A serious violent offence, or a conspiracy to commit such an offence,—

10 no evidence of that communication, or of its substance, meaning, or purport, may be given in any Court.”

(2) Section 312N of the principal Act (as so inserted) is amended by omitting from subsection (2) the words “(within the meaning of section 10 of the Misuse of Drugs Amendment Act 1978)”, and substituting the words “or a **prescribed cannabis offence** (as those terms are defined in section 10 of the Misuse of Drugs Amendment Act 1978)”.

15 (3) Section 312N of the principal Act (as so inserted) is amended by adding the following subsection<§>:

*Struck Out (Majority)*

20 “(3) Where, in any proceedings for a prescribed cannabis offence (as so defined), it is necessary to determine, pursuant to subsection (2) of this section, whether or not evidence relating to that offence may be admitted, paragraph (b) (i) of that subsection shall be applied as if a warrant or permit could be  
25 issued under ~~section 15B~~ or section 19 of the Misuse of Drugs Amendment Act 1978 in respect of such an offence whether or not there are reasonable grounds for believing—

“(a) That there is an organised criminal enterprise; and

30 “(b) That a person who is planning, participating in, or committing, or who has planned, participated in, or committed, such an offence is a member of such an enterprise.”

*New (Majority)*

“(3) **Subsection (4)** applies where,—

35 “(a) In any proceedings for a **prescribed cannabis offence** (as so defined), a Judge has to decide whether or not evidence relating to the offence can be admitted under subsection (2); and

*New (Majority)*

“(b) In order to make that decision, the Judge has to decide the issue of whether or not a warrant or permit could have been issued under Part II of the Misuse of Drugs Amendment Act 1978 in respect of the prescribed cannabis offence. 5

“(4) Where this section applies, the Judge must decide the issue referred to in **subsection (3) (b)** as if a warrant or permit could be issued under **section 15B** or section 19 of the Misuse of Drugs Amendment Act 1978 in respect of a **prescribed cannabis offence** regardless of whether or not there are reasonable grounds for believing— 10

“(a) That there is an organised criminal enterprise; and

“(b) That a person who is planning, participating in, or committing, or who has planned, participated in, or committed, such an offence is a member of such an enterprise.” 15

*Struck Out (Majority)*

**52. Commissioner of Police to give information to Parliament**—(1) Section 312Q of the principal Act (as so inserted) is hereby amended by inserting, after paragraph (a), the following paragraph: 20

“(aa) The number of applications for warrants made under **section 312CA** of this Act; and”.

(2) Section 312Q of the principal Act (as so inserted) is hereby amended by inserting, after paragraph (c), the following paragraph: 25

“(ca) The number of occasions on which telephonic communications were intercepted pursuant to an emergency permit granted pursuant to section 312G of this Act; and” 30

*New (Majority)*

**52. Commissioner of Police to give information to Parliament**—The principal Act is amended by repealing section 312Q (as so inserted), and substituting the following section:

- 5 “312Q. The Commissioner of Police must include in every annual report prepared by the Commissioner for the purposes of section 65 of the Police Act 1958 the following information in respect of the period under review:
- 10 “(a) The number of applications for warrants made under section 312B; and
- “ (b) The number of applications for warrants made under **section 312CA**; and
- 15 “(c) The number of applications for renewals of warrants made under section 312F; and
- “ (d) The number of applications for emergency permits made under section 312G; and
- 20 “(e) The number of applications referred to in each of **paragraphs (a) to (d)** that were granted, and the number that were refused; and
- “ (f) In relation to each of the types of warrant referred to in **paragraphs (a) and (b)** that were issued,—
- “ (i) The number of warrants that authorised the use of a listening device to intercept the private
- 25 communications of a named individual:
- “ (ii) The number of warrants that authorised the use of a listening device to intercept private communications at specified premises or a specified place:
- 30 “ (iii) The number of warrants that authorised entry onto private premises; and
- “ (g) The number of occasions on which telephonic communications were intercepted under an emergency permit granted under section 312G; and
- 35 “ (h) The average duration of warrants (including renewals); and
- “ (i) The number of prosecutions that have been instituted in which evidence obtained directly or indirectly from an interception carried out pursuant to a warrant or permit has been adduced, and the result of those
- 40 prosecutions; and

*New (Majority)*

“(j) The number of prosecutions that have been instituted against members of the Police (including former members of the Police where the prosecution relates to behaviour occurring while they were members of the Police) for— 5

“(i) Offences against section 216C (prohibition on disclosure of private communications unlawfully intercepted):

“(ii) Offences against section 312k (prohibition on disclosure of private communications lawfully intercepted).” 10

**52A. New heading and sections inserted**—The principal Act is amended by inserting, after section 314, the following heading and sections: 15

*“General Power to Stop Vehicles to Exercise Statutory Search Powers*

“314A. **Statutory search power**—(1) For the purposes of sections 314B and 314C, a ‘statutory search power’ means any power conferred by statute that expressly authorises any member of the Police to search a vehicle, but does not include a power that itself authorises any member of the Police to stop a vehicle. 20

“(2) A power conferred by statute described in subsection (1) is a statutory search power for the purposes of sections 314B and 314C whether or not the power conferred by statute— 25

“(a) Involves the issue of a warrant:

“(b) Authorises any other person to exercise that power.

“(3) For the purposes of this section and sections 314B and 314C, the term ‘vehicle’ does not include any aircraft, hovercraft, ship or ferry or other vessel, train, or carriage. 30

“314B. **General power to stop vehicles**—(1) Any member of the Police may stop a vehicle for the purpose of conducting a search under a statutory search power if the member of the Police is satisfied that,—

“(a) In respect of a statutory search power to search without a warrant, the ground or grounds, as the case may be, for exercising that statutory search power, as set out in the applicable statute, exist; or 35



*New (Majority)*

“(b) In respect of a statutory search power to search with a warrant, the warrant has been issued and is in force.

5 “(2) Any member of the Police who stops a vehicle under **subsection (1)** must—

“(a) Be wearing a uniform or distinctive cap, hat, or helmet with a badge of authority affixed to that cap, hat, or helmet; or

10 “(b) Be following immediately behind the vehicle in a motor vehicle displaying flashing blue lights, or flashing blue and red lights, and sounding a siren.

“(3) A person driving a vehicle must stop the vehicle as soon as is practicable on being required to do so by a member of the Police exercising the stopping power conferred by **subsection (1)**.

15 “(4) Every member of the Police exercising the stopping power conferred by **subsection (1)** must, immediately after the vehicle has stopped,—

“(a) Identify himself or herself to the driver of the vehicle; and

20 “(b) Tell the driver that the stopping power is being exercised under this section for the purpose of exercising a statutory search power; and

“(c) Tell the driver the statutory search power in respect of which the stopping power is being exercised; and

25 “(d) If not in uniform and if so required, produce evidence that he or she is a member of the Police.

“(5) **Subsection (4)** does not limit any other duties that a member of the Police must carry out when exercising the applicable statutory search power.

30 “(6) Despite **subsection (5)**, a member of the Police need not carry out any duty that is contained in the applicable statutory search power if that duty is exactly the same as a duty contained in **subsection (4)**.

35 “(7) This section does not limit or affect the powers of any person other than a member of the Police under any power of search conferred by statute.

“314C. **Powers incidental to stopping vehicles under section 314B**—(1) This section applies whenever a vehicle is stopped under **section 314B**.

40 “(2) Any member of the Police may do either or both of the following:

*New (Majority)*

- “(a) Require any person in or on the vehicle to state his or her name, address, and date of birth, or such of those particulars as the member of the Police may specify: 5
- “(b) Require that the vehicle remain stopped for as long as is reasonably necessary to enable a statutory search power to be exercised.
- “(3) This section does not limit or affect the exercise of any other power, whether express or implied, that is incidental to the applicable statutory search power. 10
- “314D. **Offences relating to stopping vehicles under section 314B**—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, without reasonable excuse,— 15
- “(a) Fails to stop as soon as is practicable when required to do so by a member of the Police exercising the power conferred by **section 314B (1)**; or
- “(b) Fails to comply with a requirement made by a member of the Police under **paragraph (a) or paragraph (b) of section 314C (2)**. 20
- “(2) Any member of the Police may arrest without warrant any person whom the member of the Police has good cause to suspect has committed an offence against **subsection (1)**.”

**53. New sections substituted**—The principal Act is amended by repealing section 317A (as inserted by section 3 of the Crimes Amendment Act (No. 2) 1993), and substituting the following sections: 25

- “317A. **Power to stop vehicles for purpose of arrest**— 30
- (1) Any member of the Police who—
- “(a) Has reasonable grounds to suspect that there is in or on any vehicle any person who either—
- “(i) Is unlawfully at large; or
- “(ii) Has committed an offence punishable by imprisonment; and 35
- “(b) Either—
- “(i) Is wearing a uniform or a distinctive cap, hat, or helmet with a badge of authority affixed thereto; or

“(ii) Is following immediately behind the vehicle in a motor vehicle displaying flashing blue lights, or flashing blue and red lights, and sounding a siren— may stop the vehicle for the purpose of arresting that person.

5 “(2) A person driving a vehicle must stop the vehicle as soon as is practicable on being required to do so by a member of the Police exercising the power conferred by **subsection (1)**.

10 “(3) Every member of the Police exercising any power conferred by **subsection (1)** must, immediately after the vehicle has stopped,—

“(a) Identify himself or herself to the driver of the vehicle; and

“(b) Tell the driver that the power is being exercised under this section; and

15 “(c) If not in uniform and if so required, produce evidence that he or she is a member of the Police.

20 “(4) Where a vehicle fails to stop at a road block established under section 317B, **subsection (1)** applies and any member of the Police may, in relation to that vehicle and any person in or on it, exercise all or any of the powers conferred by this section and **sections 317AA and 317AB**.

25 “(5) For the purposes of this section, the term ‘unlawfully at large’, in relation to any person, includes (but is not limited to) any case where a warrant for the arrest of that person is for the time being in force.

Cf. 1961, No. 43, s. 202B; 1981, No. 113, s. 48 (1); Road Traffic Act 1988 (U.K.) s. 163

30 “317AA. **Powers incidental to stopping vehicles under section 317A**—(1) Subject to **section 317A (3)**, where any vehicle is stopped pursuant to **section 317A**, any member of the Police may do all or any of the following:

35 “(a) Require any person in or on any such vehicle to state his or her name, address, and date of birth, or such of those particulars as the member of the Police may specify:

*Struck Out (Majority)*

“(b) Search the vehicle for the purpose of—

“(i) Locating a person referred to in **section 317A (1) (a)** of this Act; or

*Struck Out (Majority)*

“(ii) Locating property that is evidence of the commission of the offence in respect of which the vehicle is stopped pursuant to **section 317A (1) (a) (iii)** of this Act; or

5

“(iii) Locating property that is stolen or obtained by any crime involving dishonesty,—  
if the member or any other member of the Police believes on reasonable grounds that such a person, or such property, is in or on the vehicle:

10

*New (Majority)*

“(b) Search the vehicle for the purpose of—

“(i) Locating a person referred to in **section 317A (1) (a)**; or

“(ii) Locating property that is evidence of the commission of the offence in respect of which the vehicle is stopped pursuant to **section 317A (1) (a) (ii)**,—  
if the member or any other member of the Police believes on reasonable grounds that such a person, or such property, is in or on the vehicle:

15

20

“(c) Use reasonable force to enter a vehicle for the purpose of conducting a search pursuant to **paragraph (b)**:

“(d) Require that the vehicle remain stopped for as long as is reasonably necessary to enable a member of the Police to exercise any powers conferred by this subsection, regardless of whether such powers are exercised in respect of—

25

“(i) The vehicle; or

“(ii) The occupants of the vehicle; or

“(iii) The property in or on the vehicle.

30

“(2) Every member of the Police exercising any power conferred by **subsection (1) (b)** must, before conducting the search, tell the driver the object of the proposed search.

*Struck Out (Majority)*

“(3) For the avoidance of doubt but without limiting **subsection (1)** of this section, where—

35

*Struck Out (Majority)*

“(a) A vehicle is stopped pursuant to **section 317A** of this Act;  
and

5       “(b) There are reasonable grounds for searching that vehicle  
pursuant to **subsection (1) (b) (iii)** of this section,—  
that vehicle may be searched in accordance with this section  
even though that vehicle is not stopped in respect of a person  
who is reasonably suspected by a member of the Police of  
10       having committed an offence relating to a crime involving  
dishonesty and no person in or on the vehicle is or has been  
arrested.

“**317AB. Offences relating to stopping vehicles under  
section 317A**—(1) Every person commits an offence and is  
15       liable on <summary> conviction to a fine not exceeding \$1,000  
who, without reasonable excuse,—

      “(a) Fails to stop as soon as is practicable when required to  
do so by a member of the Police exercising the  
power conferred by **section 317A (1)**; or

20       “(b) Fails to comply with a requirement made by a member  
of the Police under **paragraph (a) or paragraph (d) of  
section 317AA (1)**.

      “(2) Any member of the Police may arrest without warrant  
any person whom the member of the Police has good cause to  
suspect has committed an offence against **subsection (1)**.”

25       Cf. 1962, No. 135, s. 66 (5)

30       **54. Road blocks**—(1) Section 317B of the principal Act (as  
inserted by section 3 of the Crimes Amendment Act (No. 2)  
1993) is amended by omitting from subsection (4) the words  
“subsections (5) and (6)”, and substituting the words  
“subsection (5)”.

      (2) Section 317B of the principal Act (as so inserted) is  
amended by repealing paragraph (c) of subsection (4), and  
substituting the following paragraph:

35       “(c) Require any person in or on any such vehicle to state his  
or her name, address, and date of birth, or such of  
those particulars as the member of the Police may  
specify.”.

      (3) Section 317B of the principal Act (as so inserted) is  
amended by repealing subsection (6).

*New (Majority)*

(3A) Section 317B (7) of the principal Act (as so inserted) is amended by inserting, before the word “conviction”, the word “summary”.

(4) Section 317B of the principal Act (as so inserted) is amended by inserting, after subsection (7), the following subsection: 5

“(7A) Any member of the Police may arrest without warrant any person whom the member of the Police has good cause to suspect has committed an offence against subsection (7).” 10

*Struck Out (Majority)*

**55. New Sixth Schedule substituted**—The principal Act is hereby amended by repealing the Sixth Schedule (as added by section 5 of the Crimes Amendment Act (No. 2) 1987), and substituting the Schedule set out in the **First** Schedule to this Act. 15

*New (Majority)*

**55. Sixth Schedule repealed**—(1) The principal Act is amended by repealing the Sixth Schedule (as added by section 5 of the Crimes Amendment Act (No. 2) 1987). 20

(2) Section 5 and the Schedule of the Crimes Amendment Act (No. 2) 1987 are consequentially repealed.

**55A. Amendments to other enactments**—The enactments specified in **Schedule 1A** are amended in the manner indicated in that Schedule.

SCHEDULES

*Struck Out (Majority)*

FIRST SCHEDULE

Section 55

NEW SIXTH SCHEDULE SUBSTITUTED IN CRIMES ACT 1961

“SIXTH SCHEDULE

Section 312D (1)

FORMS

Form 1

INTERCEPTION WARRANT IN RELATION TO ORGANISED CRIMINAL ENTERPRISE

*(Section 312B, Crimes Act 1961)*

1. To [Full name of commissioned officer of Police] and every other member of the Police for the time being assisting you.

2. I am satisfied on an application made to me in writing and on oath that—

(a) There are reasonable grounds for believing that—

(i) There is an organised criminal enterprise; and

(ii) A member of that organised criminal enterprise is planning, participating in, or committing, or has planned, participated in, or committed, criminal offences of which at least one is a specified offence (within the meaning of section 312A of the Crimes Act 1961), as part of a continuing course of criminal conduct planned, organised, or undertaken by members of that enterprise; and

(b) There are reasonable grounds for believing that evidence relevant to the investigation of the offence will be obtained through the use of a listening device to intercept private communications; and

(c) [Whichsoever of the following is applicable]:

\*Other investigative procedures and techniques have been tried but have failed to facilitate the successful conclusion of the Police investigation of the case; and

*or*

\*Other investigative procedures and techniques are unlikely to facilitate the successful conclusion of the Police investigation of the case, or are likely to be too dangerous to adopt in the particular case; and

*or*

\*The case is so urgent that it would be impractical to carry out the Police investigation using only investigative procedures and techniques other than the interception of private communications; and

(d) The private communications to be intercepted are not likely to be privileged in proceedings in a Court of law by virtue of any of the provisions of Part III of the Evidence Amendment Act (No. 2) 1980 or of any rule of law that confers privilege on communications of

*Struck Out (Majority)*FIRST SCHEDULE—*continued*NEW SIXTH SCHEDULE SUBSTITUTED IN CRIMES ACT 1961—*continued*“SIXTH SCHEDULE—*continued*Form 1—*continued*

a professional character between a barrister or solicitor and a client; and

- (e) Having considered the extent to which the privacy of any person or persons would be likely to be interfered with by the interception, it would be in the best interests of the administration of justice to grant an interception warrant.

3. The offence in respect of which the warrant is granted is .....  
(*being a specified offence within the meaning of section 312A of the Crimes Act 1961*).

4. This is to authorise you at any time or times within ..... days from the date of this warrant—

\*To use a listening device to intercept the private communications of  
[*Name and address of suspect*];

*or*

\*To intercept private communications at [*Premises or place, being premises or a place believed to be used for any purpose by any member of the organised criminal enterprise*];

*or*

\*To enter, with force where necessary, [*State vehicle, place, or premises that may be entered*] for the purpose of placing, servicing, or retrieving the listening device.

\*5. The following terms and conditions are imposed in the public interest:  
.....

\*6. The following conditions are imposed to avoid so far as practicable the interception of communications of a professional character:  
.....

Dated at                      this                      day of                      19 .

.....  
Judge of the High Court.

\*To be deleted where not applicable.



*Struck Out (Majority)*

FIRST SCHEDULE—*continued*

NEW SIXTH SCHEDULE SUBSTITUTED IN CRIMES ACT 1961—*continued*

“SIXTH SCHEDULE—*continued*

Form 2

INTERCEPTION WARRANT IN RELATION TO SERIOUS VIOLENT OFFENCE

(Section 312CA, Crimes Act 1961)

1. To [Full name of commissioned officer of Police] and every other member of the Police for the time being assisting you.

2. I am satisfied on an application made to me in writing and on oath that—

(a) There are reasonable grounds for believing that—

(i) A serious violent offence (within the meaning of section 312A of the Crimes Act 1961) has been committed, or is being committed, or is about to be committed; and

(ii) [Whichsoever of the following is applicable]:

\*Three or more people were involved, or are involved, or will be involved, in the commission of that serious violent offence, whether that involvement was, or is, or will be, as the principal offender or as a party to the offence or as an accessory after the fact to the offence; and

*or*

\*Where the serious violent offence has yet to be committed, the use of a listening device to intercept private communications is likely to prevent the commission of the offence; and

(b) [Whichsoever of the following is applicable]:

\*There are reasonable grounds for believing that evidence relevant to the investigation of the case will be obtained through the use of a listening device to intercept private communications; and

*or*

\*Where the serious violent offence has yet to be committed, there are reasonable grounds for believing that evidence relevant to the prevention of that offence will be obtained through the use of a listening device to intercept private communications; and

(c) [Whichsoever of the following is applicable]:

\*Other investigative procedures and techniques have been tried but have failed to facilitate the successful conclusion of the Police investigation of the case, or, as the case may be, to provide assistance in preventing the commission of a serious violent offence; and

*Struck Out (Majority)*FIRST SCHEDULE—*continued*NEW SIXTH SCHEDULE SUBSTITUTED IN CRIMES ACT 1961—*continued*“SIXTH SCHEDULE—*continued*Form 2—*continued**or*

\*Other investigative procedures and techniques are unlikely to facilitate the successful conclusion of the Police investigation of the case, or, as the case may be, prevent the commission of a serious violent offence, or are likely to be too dangerous to adopt in the particular case; and

*or*

\*The case is so urgent that it would be impractical to carry out the Police investigation using only investigative procedures and techniques other than the interception of private communications; and

- (d) The private communications to be intercepted are not likely to be privileged in proceedings in a Court of law by virtue of any of the provisions of Part III of the Evidence Amendment Act (No. 2) 1980 or of any rule of law that confers privilege on communications of a professional character between a barrister or solicitor and a client; and
- (e) Having considered the extent to which the privacy of any person or persons would be likely to be interfered with by the interception, it would be in the best interests of the administration of justice to grant an interception warrant.

3. The offence in respect of which the warrant is granted is .....  
(*being a serious violent offence within the meaning of section 312A of the Crimes Act 1961*).

4. This is to authorise you at any time or times within ..... days from the date of this warrant—

\*To use a listening device to intercept the private communications of  
[*Name and address of suspect*];

*or*

\*To intercept private communications at [*Premises or place, being premises or a place believed to be used for any purpose by any person—*

- (A) Whom it is believed has committed, or is committing, or is about to commit, a serious violent offence; or
- (B) Whom it is believed was involved, or is involved, or will be involved, in the commission of a serious violent offence];

*or*

*Struck Out (Majority)*

FIRST SCHEDULE—*continued*

NEW SIXTH SCHEDULE SUBSTITUTED IN CRIMES ACT 1961—*continued*

“SIXTH SCHEDULE—*continued*

Form 2—*continued*

\*To enter, with force where necessary, [*State vehicle, place, or premises that may be entered*] for the purpose of placing, servicing, or retrieving the listening device.

\*5. The following terms and conditions are imposed in the public interest:  
.....

\*6. The following conditions are imposed to avoid so far as practicable the interception of communications of a professional character:  
.....

Dated at                    this                    day of                    19   .

.....  
Judge of the High Court.

*\*To be deleted where not applicable.\**

\_\_\_\_\_

## New (Majority)

Section 55A	
SCHEDULE 1A	
AMENDMENTS TO OTHER ENACTMENTS	
Act	Amendment
1947, No. 16—The District Courts Act 1947 (R.S. Vol. 28, p. 57)	By inserting, after section 17, the following section: “17A. <b>Sections 314A to 314D of Crimes Act 1961 inapplicable to bailiffs</b> —Sections 314A to 314D of the Crimes Act 1961 (which relate to a general power to stop vehicles) do not apply to any bailiff.”
1954, No. 51—The Penal Institutions Act 1954 (R.S. Vol. 18, p. 557)	By inserting, after section 8A (as inserted by section 6 of the Penal Institutions Amendment Act 1994), the following section: “8B. <b>Sections 314A to 314D of Crimes Act 1961 inapplicable to officers</b> —Sections 314A to 314D of the Crimes Act 1961 (which relate to a general power to stop vehicles) do not apply to any officer of an institution.” By inserting, after section 36L (as inserted by section 19 of the Penal Institutions Amendment Act 1994), the following section: “36LA. <b>Sections 314A to 314D of Crimes Act 1961 inapplicable to security officers</b> —Sections 314A to 314D of the Crimes Act 1961 (which relate to a general power to stop vehicles) do not apply to any security officer.”
1975, No. 116—The Misuse of Drugs Act 1975 (R.S. Vol. 26, p. 567)	By inserting in section 18, after subsection (3), the following subsection: “(3A) If it is necessary for a member of the Police to stop a vehicle for the purpose of exercising the power conferred by subsection (3) to search a person who is in the vehicle, sections 314A to 314D of the Crimes Act 1961 apply with any necessary modifications as if references in those sections to a statutory search power are references to subsection (3).”
1983, No. 44—The Arms Act 1983	By inserting in section 60 (1), after paragraph (a), the following paragraph: “(aa) Use such force as is reasonable in the circumstances for the purposes of effecting entry to the

*New (Majority)*

SCHEDULE 1A— <i>continued</i>	
AMENDMENTS TO OTHER ENACTMENTS— <i>continued</i>	
Act	Amendment
<p>1983, No. 44—The Arms Act 1983—<i>continued</i></p>	<p>vehicle, and for breaking open any package or other thing to which paragraph (a) relates; and”.</p> <p>By inserting in section 60, after subsection (1), the following subsections:</p> <p>“(1A) If it is necessary for a member of the Police to stop a vehicle for the purpose of exercising the power conferred by subsection (1) to search a person who is in the vehicle, sections 314<i>b</i> to 314<i>d</i> of the Crimes Act 1961 apply with any necessary modifications as if references in those sections to a statutory search power are references to the power to search a person under subsection (1).</p> <p>“(1B) Subsection (1A) does not limit the application of sections 314<i>A</i> to 314<i>d</i> of the Crimes Act 1961 in respect of the stopping of any vehicle for the purpose of exercising the power to search the vehicle under subsection (1).”</p>
<p>1991, No. 120—The Proceeds of Crime Act 1991</p>	<p>By inserting, after section 32, the following section:</p> <p>“32A. <b>Power to stop vehicles</b>—If it is necessary for a member of the Police to stop a vehicle for the purpose of exercising a search power conferred by section 32 (1), sections 314<i>b</i> to 314<i>d</i> of the Crimes Act 1961 apply with any necessary modifications as if references in those sections to a statutory search power are references to section 32 (1).”</p>
<p>1992, No. 86—The Mutual Assistance in Criminal Matters Act 1992</p>	<p>By inserting, after section 46, the following section:</p> <p>“46A. <b>Power to stop vehicles</b>—If it is necessary for a member of the Police to stop a vehicle for the purpose of exercising a search power conferred by section 46 (1), sections 314<i>b</i> to 314<i>d</i> of the Crimes Act</p>

## New (Majority)

SCHEDULE 1A—*continued*AMENDMENTS TO OTHER ENACTMENTS—*continued*

Act	Amendment
<p>1992, No. 86—The Mutual Assistance in Criminal Matters Act 1992—<i>continued</i></p> <p>1993, No. 94—The Films, Videos, and Publications Classification Act 1993</p>	<p>1961 apply with any necessary modifications as if references in those sections to a statutory search power are references to section 46 (1).”</p> <p>By inserting, after section 111, the following section:</p> <p>“111A. <b>Power to stop vehicles</b>—If it is necessary for a member of the Police to stop a vehicle for the purpose of exercising a search power conferred by section 111 (2), sections 314B to 314D of the Crimes Act 1961 apply with any necessary modifications as if references in those sections to a statutory search power are references to section 111 (2).”</p>
<p>1995, No. 27—The International War Crimes Tribunals Act 1995</p>	<p>By inserting, after section 50, the following section:</p> <p>“50A. <b>Power to stop vehicles</b>—If it is necessary for a member of the Police to stop a vehicle for the purpose of exercising a search power conferred by section 50 (1), sections 314B to 314D of the Crimes Act 1961 apply with any necessary modifications as if references in those sections to a statutory search power are references to section 50 (1).”</p>
<p>1996, No. 9—The Financial Transactions Reporting Act 1996</p>	<p>By inserting, after section 46, the following section:</p> <p>“46A. <b>Power to stop vehicles</b>—If it is necessary for a member of the Police to stop a vehicle for the purpose of exercising a search power conferred by section 46 (1), sections 314B to 314D of the Crimes Act 1961 apply with any necessary modifications as if references in those sections to a statutory search power are references to section 46 (1).”</p>