

**Authorised Version No. 034**  
**Major Crime (Investigative Powers) Act 2004**

**No. 79 of 2004**

Authorised Version incorporating amendments as at  
1 October 2014

**TABLE OF PROVISIONS**

| <i>Section</i>   | <i>Page</i> |
|--|-------------|
| <b>PART 1—PRELIMINARY</b>                                      | <b>1</b>    |
| 1 Purposes   | 1           |
| 2 Commencement   | 1           |
| 3 Definitions  | 2           |
| 3AA Meaning of <i>organised crime offence</i>                  | 4           |
| <b>PART 1A—ROLE OF PUBLIC INTEREST MONITOR</b>                 | <b>6</b>    |
| 3A Application of Part 1A                                      | 6           |
| 3B Information to be given to Public Interest Monitor          | 6           |
| 3C Full disclosure to Public Interest Monitor                  | 7           |
| 3D Role of Public Interest Monitor                             | 7           |
| <b>PART 2—COERCIVE POWERS ORDERS AND WITNESS SUMMONSES</b>     | <b>9</b>    |
| 4 Authority given by coercive powers order                     | 9           |
| 5 Application for order  | 9           |
| 6 Remote application   | 11          |
| 7 Offence to publish report of proceedings                     | 11          |
| 8 Determination of application                                 | 12          |
| 9 Coercive powers order  | 12          |
| 10 Extension or variation of coercive powers order             | 13          |
| 11 Discontinuance of use of powers under coercive powers order | 14          |
| 12 Revocation of coercive powers order                         | 15          |
| 12A Procedure for revocation hearing                           | 15          |
| 12B Appointment of special counsel                             | 18          |
| 12C Actions following revocation of coercive powers order      | 19          |
| 13 Chief Examiner must act on revocation                       | 19          |
| 14 Supreme Court may issue witness summons                     | 20          |
| 15 Chief Examiner may issue witness summons                    | 23          |
| 16 Witness summons directed to person under 16                 | 26          |
| 17 Service of witness summons                                  | 26          |
| 18 Witness already held in custody                             | 27          |

| <i>Section</i>                             | <i>Page</i>  |           |
|--|--|-----------|
| 19   | Witness expenses   | 28        |
| 20   | Confidentiality of witness summons and orders  | 29        |
| <b>PART 3—CHIEF EXAMINER AND EXAMINERS</b> |  | <b>34</b> |
| 21   | Appointment of Chief Examiner and Examiners  | 34        |
| 22   | Remuneration and allowances  | 34        |
| 23   | Terms and conditions   | 35        |
| 24   | Vacancy, resignation, removal  | 35        |
| 25   | Validity of acts and decisions   | 36        |
| 26   | Conflict of interest   | 36        |
| 27   | Management of Examiners  | 36        |
| 28   | Police assistance to Chief Examiner  | 37        |
| <b>PART 4—EXAMINATIONS</b>                 |  | <b>38</b> |
| 29   | When Chief Examiner may conduct examinations   | 38        |
| 30   | Conduct of examination   | 39        |
| 31   | Preliminary requirements   | 39        |
| 32   | Witness under 16   | 41        |
| 33   | Protection of legal practitioners and witnesses  | 41        |
| 34   | Representation of witness  | 41        |
| 35   | Examination to be held in private  | 42        |
| 35A  | Person may be examined without summons   | 43        |
| 36   | Taking of evidence   | 43        |
| 37   | Failure of witnesses to attend and answer questions                                    | 44        |
| 38   | False or misleading evidence   | 45        |
| 39   | Privilege against self-incrimination abrogated   | 45        |
| 40   | Legal professional privilege   | 47        |
| 41   | Procedure for determining claims of legal professional privilege                       | 48        |
| 42   | Application to County Court or Supreme Court to determine legal professional privilege | 49        |
| 43   | Restriction on publication of evidence   | 51        |
| 43A  | Release of restricted evidence to a person charged with an offence                     | 52        |
| 43B  | Release of restricted evidence where person not yet charged                            | 53        |
| 44   | Hindering or obstructing Chief Examiner or disrupting examination                      | 55        |
| 45   | Video-recording of examination   | 55        |
| 46   | Warrant for arrest of witness  | 56        |
| 47   | Documents or other things produced to Chief Examiner                                   | 58        |
| 48   | Court proceedings  | 60        |
| 49   | Contempt of Chief Examiner   | 60        |
| 50   | No double jeopardy   | 64        |

| <i>Section</i>   | <i>Page</i> |
|--|-------------|
| <b>PART 5—OVERSIGHT BY VICTORIAN INSPECTORATE</b>                                    | <b>65</b>   |
| 51 Functions of the Victorian Inspectorate under this Part                           | 65          |
| 52 Chief Examiner must report witness summonses and orders to Victorian Inspectorate | 66          |
| 53 Chief Examiner must report other matters to Victorian Inspectorate                | 66          |
| 54 Complaint to Victorian Inspectorate   | 67          |
| 57 Recommendations by Victorian Inspectorate   | 67          |
| 58 Requirement to provide assistance   | 68          |
| 59 Powers of entry and access  | 69          |
| 60 Requirement to answer questions and produce documents                             | 70          |
| 61 Annual and other reports by Victorian Inspectorate                                | 71          |
| 63 Application of privileges and provision of information, documents                 | 72          |
| 64 Obstruction   | 73          |
| <b>PART 6—MISCELLANEOUS</b>  | <b>74</b>   |
| 65 Delegation  | 74          |
| 65A Deputy Commissioners of Victoria Police  | 75          |
| 66 Obligations of Chief Commissioner   | 75          |
| 67 Information sharing   | 75          |
| 68 Secrecy   | 77          |
| 69 Exemption from <b>Freedom of Information Act 1982</b>                             | 79          |
| 70 Regulations   | 79          |
| 71 Transitional provision—Complaints to the SIM                                      | 80          |
| 72 Transitional provision—First annual report  | 81          |
| <hr style="border-top: 3px double #000;"/>   |             |
| <b>ENDNOTES</b>  | <b>83</b>   |
| 1. General Information   | 83          |
| 2. Table of Amendments   | 84          |
| 3. Explanatory Details   | 88          |

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**Authorised Version No. 034**  
**Major Crime (Investigative Powers) Act 2004**

**No. 79 of 2004**

Authorised Version incorporating amendments as at  
1 October 2014

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1 Purposes**

The purposes of this Act are—

- (a) to provide for a regime for the authorisation and oversight of the use of coercive powers to investigate and prosecute organised crime offences; and
- (b) to combat and reduce the incidence of organised crime offences.

S. 1(a)  
amended by  
No. 55/2014  
s. 156(a).

S. 1(b)  
substituted by  
No. 55/2014  
s. 156(b).

**2 Commencement**

- (1) Subject to this section, this Act (except sections 75, 97 and 130) comes into operation on a day or days to be proclaimed.
- (2) Sections 75 and 97 come into operation on the day on which this Act receives the Royal Assent.
- (3) Section 130 is deemed to have come into operation on the day on which the **Major Crime Legislation (Office of Police Integrity) Act 2004** received the Royal Assent.
- (4) If a provision of this Act, other than section 75, 97 or 130, does not come into operation before 1 July 2005, it comes into operation on that day.

### 3 Definitions

In this Act—

S. 3 def. of  
*Chief  
Commis-  
sioner*  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.1(b)).

*Chief Commissioner* means the Chief  
Commissioner of Police appointed under the  
**Victoria Police Act 2013**;

S. 3 def. of  
*coercive  
powers order*  
amended by  
No. 29/2006  
s. 3(Sch. 1  
item 20).

*Chief Examiner* means the Chief Examiner  
appointed under Part 3;

*coercive powers order* means an order made under  
section 8 authorising the use of coercive  
powers to investigate an organised crime  
offence;

S. 3 def. of  
*declared  
individual*  
inserted by  
No. 55/2014  
s. 105(b).

*declared individual* has the same meaning as it  
has in the **Criminal Organisations Control  
Act 2012**;

S. 3 def. of  
*declared  
organisation  
member*  
inserted by  
No. 55/2014  
s. 105(b).

*declared organisation member* has the same  
meaning as it has in the **Criminal  
Organisations Control Act 2012**;

S. 3 def. of  
*legal  
practitioner*  
inserted by  
No. 18/2005  
s. 18(Sch. 1  
item 64.1).

*legal practitioner* means an Australian legal  
practitioner within the meaning of the **Legal  
Profession Act 2004**;

*member of Victoria Police personnel* has the same meaning as in the **Victoria Police Act 2013**;

S. 3 def. of *member of police personnel* inserted by No. 3/2009 s. 3(1), substituted as *member of Victoria Police personnel* by No. 37/2014 s. 10(Sch. item 103.1(c)).

*mental impairment* includes impairment because of mental illness, intellectual disability, dementia or brain injury;

*organised crime offence* has the meaning given by section 3AA;

S. 3 def. of *organised crime offence* amended by No. 3/2009 s. 3(2), substituted by No. 55/2014 s. 105(a).

*police gaol* has the same meaning as in the **Corrections Act 1986**;

*police officer* has the same meaning as in the **Victoria Police Act 2013**;

S. 3 def. of *police officer* inserted by No. 37/2014 s. 10(Sch. item 103.1(a)).

*prison* has the same meaning as in the **Corrections Act 1986** but includes a youth justice centre established under section 478 of the **Children, Youth and Families Act 2005**;

S. 3 def. of *prison* amended by No. 48/2006 s. 42(Sch. item 24).

*proper officer* means—

- (a) in the case of the Supreme Court—  
the prothonotary;

S. 3 def. of *proper officer* inserted by No. 3/2009 s. 3(3).

(b) in the case of the County Court—  
a registrar of that Court;

S. 3(1) def. of  
*Public Interest  
Monitor*  
inserted by  
No. 72/2011  
s. 22.

***Public Interest Monitor*** means a Public Interest  
Monitor within the meaning of the **Public  
Interest Monitor Act 2011**;

S. 3(1) def. of  
*restricted  
evidence*  
inserted by  
No. 55/2014  
s. 157.

***restricted evidence*** means any evidence,  
information or thing that is the subject of a  
direction that is in force under section 43(1);

S. 3(1) def. of  
*Special  
Investigations  
Monitor*  
repealed by  
No. 82/2012  
s. 106(a).

\* \* \* \* \*

S. 3(1) def. of  
*Victorian  
Inspectorate*  
inserted by  
No. 82/2012  
s. 106(b).

***Victorian Inspectorate*** has the same meaning as it  
has in the **Victorian Inspectorate Act 2011**;

***witness summons*** means a summons issued under  
section 14 or 15.

S. 3AA  
inserted by  
No. 55/2014  
s. 106.

### 3AA Meaning of *organised crime offence*

- (1) For the purposes of this Act, ***organised crime offence*** means an indictable offence against the law of Victoria that—
- (a) is punishable by level 5 imprisonment (10 years maximum) or more; and
  - (b) involves 2 or more offenders; and
  - (c) satisfies subsection (2) or (3).

- 
- (2) An offence satisfies this subsection if the offence—
- (a) involves substantial planning and organisation; and
  - (b) forms part of systemic and continuing criminal activity; and
  - (c) has a purpose of obtaining profit, gain, power or influence or of sexual gratification where the victim is a child.
- (3) An offence satisfies this subsection if 2 or more of the offenders involved in the offence are, at any time, either declared individuals or a declared organisation members.
- (4) It is immaterial that the offence was committed before the commencement of this Act.
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s. 3A

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## PART 1A—ROLE OF PUBLIC INTEREST MONITOR

Pt 1A  
(Heading and  
ss 3A–3D)  
inserted by  
No. 72/2011  
s. 23.

### 3A Application of Part 1A

This Part applies if a person is required under this Act to give notice to the Public Interest Monitor of an application for—

- (a) a coercive powers order; or
- (b) an extension, variation or revocation of a coercive powers order.

S. 3A  
inserted by  
No. 72/2011  
s. 23.

### 3B Information to be given to Public Interest Monitor

- (1) If the application is made in writing, the applicant must give the Public Interest Monitor a copy of the application and any affidavit required to be given to the Supreme Court in support of the application.
- (2) If further information is required under section 5(5) to be given to the Supreme Court, the applicant must also give the Public Interest Monitor that information.
- (3) If the application is to be made by telephone, the applicant must give the Public Interest Monitor the information required to be given to the Supreme Court judge on a telephone application.
- (4) An obligation to maintain secrecy in relation to, or that otherwise restricts, the provision of information to the Public Interest Monitor, whether imposed under an Act or by a rule of law, does not apply to the provision of information under this Part.

S. 3B  
inserted by  
No. 72/2011  
s. 23.

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**3C Full disclosure to Public Interest Monitor**

S. 3C  
inserted by  
No. 72/2011  
s. 23.

- (1) The applicant must fully disclose to the Public Interest Monitor all matters of which the applicant is aware that are adverse to the application.
- (2) The applicant must not knowingly or recklessly fail to comply with subsection (1).

Penalty: 60 penalty units or imprisonment for 6 months or both.

**3D Role of Public Interest Monitor**

S. 3D  
inserted by  
No. 72/2011  
s. 23.

- (1) The Public Interest Monitor is entitled—
  - (a) to appear at any hearing of the application to test the content and sufficiency of the information relied on and the circumstances of the application; and
  - (b) for the purpose of testing the content and sufficiency of the information relied on and the circumstances of the application—
    - (i) to ask questions of any person giving information in relation to the application; and
    - (ii) to make submissions to the Supreme Court judge as to the appropriateness of granting the application.
- (2) Without limiting subsection (1), the Public Interest Monitor is entitled to make submissions to the Supreme Court in the presence of the judge or by phone, fax, email or any other reasonable way.
- (3) If a Public Interest Monitor is not reasonably able to be contacted for an application to which section 5(6) applies—
  - (a) the application may proceed without a Public Interest Monitor being notified; and

Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004  
Part 1A—Role of Public Interest Monitor

**s. 3D**

**S. 3D(3)(b)**  
**amended by**  
**No. 70/2013**  
**s. 3(Sch. 1**  
**item 28.1).**

- 
- (b) a Public Interest Monitor must be notified as soon as possible and given any information requested by the Public Interest Monitor that the Public Interest Monitor would have been entitled to obtain for or during the application.
- (4) As soon as practicable after the application is determined, the Public Interest Monitor must return to the applicant any documents given by the applicant to the Public Interest Monitor under section 3B or 3C or subsection (3) of this section in relation to the application.
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**PART 2—COERCIVE POWERS ORDERS AND WITNESS  
SUMMONSES**

**4 Authority given by coercive powers order**

A coercive powers order authorises the use in accordance with this Act of powers provided by this Act for the purpose of investigating the organised crime offence in respect of which the order is made.

**5 Application for order**

(1) Subject to subsections (2) and (2A), a police officer may apply to the Supreme Court for a coercive powers order if the police officer suspects on reasonable grounds that an organised crime offence has been, is being or is likely to be committed.

S. 5(1)  
amended by  
Nos 37/2014  
s. 10(Sch.  
item 103.2),  
55/2014  
s. 107(1).

(2) An application under subsection (1) may only be made with the approval of the Chief Commissioner or a delegate of the Chief Commissioner.

(2A) An offence that is an organised crime offence because it satisfies section 3AA(3) may be the subject of an application under subsection (1) only if 2 or more of the offenders involved in the offence are either declared individuals or declared organisation members at the time that the application is made.

S. 5(2A)  
inserted by  
No. 55/2014  
s. 107(2).

(3) An application under subsection (1) must be in writing and must specify—

- (a) the name and rank of the applicant; and
- (b) the name and rank of the person who approved the application; and
- (c) particulars of the organised crime offence in respect of which the coercive powers order is sought; and

- (d) the name of each alleged offender or, if the name is unknown, state that the offender is unknown; and
  - (e) the period, not exceeding 12 months, that is sought for the duration of the coercive powers order.
- (4) An application under subsection (1) must be supported by an affidavit of the applicant—
- (a) stating that he or she suspects that an organised crime offence has been, is being, or is likely to be committed, as the case requires; and
  - (b) setting out the grounds on which the applicant holds that suspicion; and
  - (c) setting out the reason why the use of coercive powers is sought.
- (5) The Supreme Court may require the applicant to provide any additional information that the Court requires in relation to the application.
- (5A) The applicant must notify a Public Interest Monitor of the application in accordance with the regulations under the **Public Interest Monitor Act 2011**.
- (6) If the applicant believes that—
- (a) the delay caused in complying with subsection (4) may prejudice the success of the investigation into the relevant organised crime offence; and
  - (b) it is impracticable for an affidavit to be prepared or sworn before the application is made—

S. 5(5A)  
inserted by  
No. 72/2011  
s. 24.

the application for a coercive powers order may be made before an affidavit is prepared or sworn.

- (7) If subsection (6) applies, the applicant must—
- (a) provide as much information as the Supreme Court considers is reasonably practicable in the circumstances; and
  - (b) if an affidavit has been prepared but not sworn, provide a copy of the unsworn affidavit to the Supreme Court; and
  - (c) not later than the day following the making of the application, send the duly sworn affidavit to the Supreme Court, whether or not a coercive powers order has been made.
- (8) An application under subsection (1) must be heard in closed court.

#### **6 Remote application**

- (1) If a police officer believes that it is impracticable for an application for a coercive powers order to be made in person, the application may be made under section 5 by telephone, fax, e-mail or any other means of communication.
- (2) If transmission by fax is available and an affidavit has been prepared, the applicant must transmit a copy of the affidavit, whether sworn or unsworn, to the judge of the Supreme Court who is to determine the application.

S. 6(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.3).

#### **7 Offence to publish report of proceedings**

- (1) Unless the Supreme Court orders otherwise, a person who publishes a report of a proceeding in respect of an application for a coercive powers order or any information derived from such a proceeding is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum).
- (2) The Supreme Court may make an order under subsection (1) if it considers it appropriate to do so.

s. 8

S. 8  
amended by  
No. 72/2011  
s. 25 (ILA  
s. 39B(1)).

## 8 Determination of application

- (1) The Supreme Court may make a coercive powers order if satisfied—
  - (a) that there are reasonable grounds for the suspicion founding the application for the order; and
  - (b) that it is in the public interest to make the order, having regard to—
    - (i) the nature and gravity of the alleged organised crime offence in respect of which the order is sought; and
    - (ii) the impact of the use of coercive powers on the rights of members of the community.
- (2) In making a coercive powers order, the Supreme Court must have regard to any submissions made by a Public Interest Monitor.

S. 8(2)  
inserted by  
No. 72/2011  
s. 25.

## 9 Coercive powers order

- (1) A coercive powers order must state that the Supreme Court is satisfied of the matters referred to in section 8(1)(a) and (1)(b) having regard to the matters referred to in section 8(1)(b)(i), 8(1)(b)(ii) and 8(2).
- (2) A coercive powers order must also specify—
  - (a) the organised crime offence in respect of which the order is made; and
  - (b) the name of each alleged offender or, if the name is unknown, state that the offender is unknown; and
  - (c) the name and rank of the applicant; and
  - (d) the name and rank of the person who approved the application; and
  - (e) the date on which the order is made; and

S. 9(1)  
amended by  
Nos 72/2011  
s. 26, 13/2012  
s. 12.

- (f) the period for which the order remains in force, being a period not exceeding 12 months; and
  - (g) any conditions on the use of coercive powers under the order.
- (3) A coercive powers order must be signed by the judge of the Supreme Court who makes it and include his or her name.
- (4) If the Supreme Court makes a coercive powers order, the applicant must cause a copy of the order to be given to the Chief Examiner as soon as practicable after the making of the order.

#### **10 Extension or variation of coercive powers order**

- (1) Subject to subsection (2), a police officer on whose application a coercive powers order has been made, or another person on his or her behalf, may apply to the Supreme Court for—
- (a) an extension of the order for a period not exceeding 12 months from the day on which it would otherwise expire; or
  - (b) a variation of any of the other terms of the order.
- (2) An application under subsection (1) may only be made with the approval of the Chief Commissioner or a delegate of the Chief Commissioner.
- (3) Section 5 applies to an application for extension or variation of a coercive powers order as if it were an application for an order.
- (3A) The Supreme Court must have regard to any submissions made by a Public Interest Monitor before making a decision under subsection (4).

S. 10(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.3).

S. 10(3A)  
inserted by  
No. 72/2011  
s. 27,  
amended by  
No. 70/2013  
s. 3(Sch. 1  
item 28.2).



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- (4) On an application under this section, the Supreme Court may, at any time before the expiry of a coercive powers order, make a new order providing for—
- (a) the extension of the original order for a period not exceeding 12 months from the day on which it would otherwise expire; or
  - (b) variation of the other terms of the original order.
- (5) A coercive powers order may be extended or varied more than once.
- (6) If the Supreme Court makes an order under this section, the applicant must cause a copy of the order to be given to the Chief Examiner as soon as practicable after the making of the order.

**11 Discontinuance of use of powers under coercive powers order**

- (1) If the Chief Commissioner or the delegate of the Chief Commissioner who approved an application for a coercive powers order, or an application for extension or variation of a coercive powers order, is satisfied that the powers under the order are no longer required for the purpose for which the order was made, the Chief Commissioner or delegate must immediately give notice in writing to the Supreme Court that the person giving notice has formed the view that the coercive powers order is no longer required.
- (2) A notice under subsection (1) must be filed with the Supreme Court.
- (2A) The Chief Commissioner or delegate must give a copy of a notice under subsection (1) to a Public Interest Monitor.
- (3) On the filing of a notice under subsection (1), the coercive powers order is revoked.

S. 11(2A)  
inserted by  
No. 72/2011  
s. 28.

## 12 Revocation of coercive powers order

- (1) The Supreme Court may revoke a coercive powers order at any time before the expiry of the order.
- (2) The Supreme Court must give notice of the application for the revocation of a coercive powers order to the Chief Examiner and the Chief Commissioner setting out the time and date of the hearing of the application.

S. 12  
substituted by  
No. 3/2009  
s. 4.

## 12A Procedure for revocation hearing

- (1) If the Chief Commissioner objects to the disclosure or production of protected information at a hearing for the revocation of a coercive powers order, the Chief Commissioner may apply before the hearing to the Supreme Court to determine the matter of the revocation—
  - (a) at a hearing at which evidence given by a police officer is given on the basis of confidential affidavit that is not disclosed to one or more of the parties or any representative of those parties; or
  - (b) at a hearing held in closed court in which the Chief Commissioner and each party to the proceeding has a right to make submissions; or
  - (c) at a hearing held without notice to, and without the presence of, one or more of the parties or any representative of those parties; or
  - (d) by any combination of the methods set out in paragraphs (a), (b) and (c).
- (2) If the Supreme Court is satisfied that it is not in the public interest to hear and determine the matter by the method specified by the Chief Commissioner in the application under subsection (1), the Court may decide to hear and determine

S. 12A  
inserted by  
No. 3/2009  
s. 4.

S. 12A(1)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.4(a)).

**s. 12A**

the matter by any other method set out in subsection (1).

- (3) In deciding which method to hear and determine the matter of the revocation of a coercive powers order, the Supreme Court must take into account—
- (a) the public interest in protecting the confidentiality of any intelligence information or any document or thing provided to the Court for the purposes of obtaining the coercive powers order or obtained or to be obtained under the coercive powers order; and
  - (b) the extent to which the method of hearing and determining the matter may disclose any intelligence information, or document or thing the disclosure of which—
    - (i) reveals the identity of the police officer who applied for the coercive powers order or puts that police officer's safety at risk; or
    - (ii) reveals the identity of a person who has been called, or who has appeared, as a witness in an examination conducted under the coercive powers order, or puts that person's safety at risk; or
    - (iii) reveals the identity of a person who has provided a police officer with information relating to an investigation, or puts that person's safety at risk; or
    - (iv) reveals the identity of a person whose name appears in any evidence given or information provided to a police officer relating to an investigation, or puts that person's safety at risk; or

S. 12A(3)(b)(i)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.4(b)(i)(ii)).

S. 12A(3)(b)(iii)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.4(b)(i)).

S. 12A(3)  
(b)(iv)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.4(b)(i)).

Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004

Part 2—Coercive Powers Orders and Witness Summonses

s. 12A

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|--|---|
| (v) reveals the identity of a person who is or has been the subject of an investigation by a police officer, or puts that person's safety at risk; or  | S. 12A(3)<br>(b)(v)<br>amended by<br>No. 37/2014<br>s. 10(Sch.<br>item<br>103.4(b)(i)).     |
| (vi) places at risk an ongoing investigation by a police officer; or   | S. 12A(3)<br>(b)(vi)<br>amended by<br>No. 37/2014<br>s. 10(Sch.<br>item<br>103.4(b)(i)).    |
| (vii) risks the disclosure of any investigative method used by police officers; or   | S. 12A(3)<br>(b)(vii)<br>amended by<br>No. 37/2014<br>s. 10(Sch.<br>item<br>103.4(b)(iii)). |
| (viii) is otherwise not in the public interest.  |   |
| (4) If the Supreme Court decides to hear and determine the matter of the revocation by the method set out in subsection (1)(a), the Court may require the police officer to provide the Court with any further confidential affidavits the Court requires to determine the matter. | S. 12A(4)<br>amended by<br>No. 37/2014<br>s. 10(Sch.<br>item 103.4(c)).                     |
| (5) In this section <i>protected information</i> means any intelligence information, document or thing the production or inspection of which—  |   |
| (a) is likely to reveal any matter referred to in subsection (3)(b)(i) to (v); or  |   |
| (b) is likely to place at risk an ongoing investigation by a police officer; or  | S. 12A(5)(b)<br>amended by<br>No. 37/2014<br>s. 10(Sch.<br>item<br>103.4(d)(i)).            |

s. 12B

S. 12A(5)(c)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.4(d)(ii)).

S. 12B  
inserted by  
No. 3/2009  
s. 4.

(c) is likely to risk the disclosure of any  
investigative method used by police officers;  
or

(d) is otherwise not in the public interest.

### 12B Appointment of special counsel

- (1) If the Supreme Court decides to hear and determine an application for the revocation of a coercive powers order at a hearing referred to in section 12A(1)(c), the Court may appoint a special counsel to represent the interests of a party to the proceeding at the hearing.
- (2) A special counsel must be a barrister within the meaning of the **Legal Profession Act 2004** who, in the opinion of the Supreme Court, has the appropriate skills and ability to represent the interests of the party at the hearing.
- (3) At any time before the special counsel attends the hearing or obtains any confidential affidavit in relation to the application, the special counsel may communicate with the party whose interests he or she is representing, or any representative of that party, for the purpose of obtaining information from the party or representative in relation to the proceeding.
- (4) At any time after the special counsel commences to attend the hearing or obtains any confidential affidavit in relation to the application, the special counsel—
  - (a) must not take instructions from the party whose interests he or she is representing, or from any representative of that party; and
  - (b) may communicate to that party or a representative of that party any order made by the Supreme Court at or in relation to the hearing; and

- (c) must not communicate any other information in relation to the hearing to that party or a representative of that party without leave of the Supreme Court.

**12C Actions following revocation of coercive powers order**

S. 12C  
inserted by  
No. 3/2009  
s. 4.

If the Supreme Court revokes a coercive powers order or a notice under section 11(1) is filed, the Court must—

- (a) cause notice of the revocation to be given to the Chief Examiner and the Chief Commissioner immediately; and
- (ab) cause notice of the revocation to be given to a Public Interest Monitor in accordance with the regulations under the **Public Interest Monitor Act 2011**; and
- (b) revoke any witness summons issued under section 14 in reliance on the coercive powers order if the witness summons has not been served or the date for attendance has not passed; and
- (c) give notice in writing of the revocation of each witness summons to the person to whom the summons was directed.

S. 12C(ab)  
inserted by  
No. 72/2011  
s. 29.

**13 Chief Examiner must act on revocation**

S. 13  
amended by  
No. 3/2009  
s. 5.

If the Chief Examiner is given notice under section 12C that a coercive powers order has been revoked, the Chief Examiner must—

- (a) revoke any witness summons issued under section 15 in reliance on the coercive powers order if the witness summons has not been served or the date for attendance has not passed; and

- (b) give notice in writing of the revocation of each witness summons to the person to whom the summons was directed; and
- (c) release from attendance or further attendance each witness who has been summoned to attend an examination in reliance on the order.

#### **14 Supreme Court may issue witness summonses**

- (1) This section applies if a coercive powers order is in force in respect of an organised crime offence.
- (2) On application under subsection (3), the Supreme Court may issue the following witness summonses—
  - (a) a summons to attend an examination before the Chief Examiner to give evidence;
  - (b) a summons to attend at a specified time and place to produce specified documents or other things to the Chief Examiner;
  - (c) a summons to attend an examination before the Chief Examiner to give evidence and produce specified documents or other things.
- (3) A police officer may apply to the Supreme Court for the issue of a summons referred to in subsection (2)—
  - (a) at the time of the making of the coercive powers order; or
  - (b) at any later time while the coercive powers order is in force.
- (4) An application for a summons—
  - (a) must be in writing; and
  - (b) must state the name and rank of the applicant; and

S. 14(3)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.5).

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- (c) must state the reason why a summons is needed for the person to whom it is to be directed; and
  - (d) must indicate the evidentiary or intelligence value of the information sought to be obtained from the person to whom the summons is to be directed; and
  - (e) if the applicant suspects that the person to whom the summons is to be directed has a mental impairment, must state that suspicion; and
  - (f) if the applicant suspects or knows that the person to whom the summons is to be directed is under the age of 18 years, must state that suspicion or knowledge and the suspected or known age of the person.
- (5) The Supreme Court may require the applicant to provide any additional information that the Court requires in relation to the application.
- (6) On application under subsection (3), the Supreme Court may issue a summons directed to a person, other than a person referred to in subsection (7), if the Court is satisfied that it is reasonable in the circumstances to do so, after consideration of—
- (a) the evidentiary or intelligence value of the information sought to be obtained from the person; and
  - (b) the age of the person, and any mental impairment to which the person is known to be subject.
- (7) The Supreme Court must not issue a summons directed to a person known to be under the age of 16 years.



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- (8) A summons must require the person to whom it is directed to attend at a specified place on a specified date and at a specified time and from day to day unless excused or released from further attendance—
- (a) to give evidence before the Chief Examiner;  
or
  - (b) to produce for examination by the Chief Examiner any documents or other things described in the summons that are in the person's possession or control; or
  - (c) both to give evidence and produce for examination any documents or other things described in the summons that are in the person's possession or control.
- (9) A summons, other than a summons referred to in subsection (10), must be served a reasonable time before the date on which the person is required to attend.
- (10) The Supreme Court may issue a summons that requires the immediate attendance before the Chief Examiner of the person to whom it is directed if the Court reasonably believes that a delay in the person's attendance is likely to result in—
- (a) evidence being lost or destroyed; or
  - (b) the commission of an offence; or
  - (c) the escape of an offender; or
  - (d) serious prejudice to the conduct of the investigation of the organised crime offence.
- (11) A summons directed to a person must state—
- (a) the general nature of the matters about which the person is to be questioned, unless the Supreme Court considers that this disclosure

- would prejudice the conduct of the investigation of the organised crime offence; and
- (b) that a coercive powers order has been made under this Act by the Supreme Court and the date on which the order was made.
- (12) A summons—
- (a) must be in the prescribed form; and
- (b) must include a statement that if the person summoned is under the age of 16 years at the date of issue of the summons the person need not comply with the summons but must—
- (i) if the Supreme Court issued the summons, give notice in writing and proof of age to the Supreme Court and the Chief Examiner; or
- (ii) if the Chief Examiner issued the summons, give notice in writing and proof of age to the Chief Examiner.
- (13) The applicant must cause a copy of a summons to be given to the Chief Examiner as soon as practicable after the summons is issued.

### **15 Chief Examiner may issue witness summonses**

- (1) This section applies if a coercive powers order is in force in respect of an organised crime offence.
- (2) The Chief Examiner may issue the following witness summonses on his or her own motion or on the application of a police officer—
- (a) a summons to attend an examination before the Chief Examiner to give evidence;
- (b) a summons to attend at a specified time and place to produce specified documents or other things to the Chief Examiner;

S. 15(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.5).

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- (c) a summons to attend an examination before the Chief Examiner to give evidence and produce specified documents or other things.
- (3) The Chief Examiner may determine the procedure for making an application for the issue of a summons under this section.
- (4) The Chief Examiner may issue a summons directed to a person, other than a person referred to in subsection (5), if the Chief Examiner is satisfied that it is reasonable in the circumstances to do so, after consideration of—
- (a) the evidentiary or intelligence value of the information sought to be obtained from the person; and
  - (b) the age of the person, and any mental impairment to which the person is known to be subject.
- (5) The Chief Examiner must not issue a summons directed to a person known to be under the age of 16 years.
- (6) On issuing a summons, the Chief Examiner must record in writing—
- (a) the grounds on which the summons is issued; and
  - (b) if the summons is directed to a person suspected to be under the age of 18 years, the reason for suspecting or believing that the person is aged 16 years or above.
- (7) A summons must require the person to whom it is directed to attend at a specified place on a specified date and at a specified time and from day to day unless excused or released from further attendance—
- (a) to give evidence before the Chief Examiner; or

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- (b) to produce for examination by the Chief Examiner any documents or other things described in the summons that are in the person's possession or control; or
    - (c) both to give evidence and produce for examination any documents or other things described in the summons that are in the person's possession or control.
  - (8) A summons, other than a summons referred to in subsection (9), must be served a reasonable time before the date on which the person is required to attend.
  - (9) The Chief Examiner may issue a summons that requires the immediate attendance before the Chief Examiner of the person to whom it is directed if the Chief Examiner reasonably believes that a delay in the person's attendance is likely to result in—
    - (a) evidence being lost or destroyed; or
    - (b) the commission of an offence; or
    - (c) the escape of an offender; or
    - (d) serious prejudice to the conduct of the investigation of the organised crime offence.
  - (10) A summons directed to a person must state—
    - (a) the general nature of the matters about which the person is to be questioned, unless the Chief Examiner considers that this disclosure would prejudice the conduct of the investigation of the organised crime offence; and
    - (b) that the coercive powers order has been made under this Act by the Supreme Court and the date on which the order was made.

- (11) A summons must be in the prescribed form and must include a statement that if the person summoned is under the age of 16 years at the date of issue of the summons, the person need not comply with the summons.

#### **16 Witness summons directed to person under 16**

- (1) A witness summons directed to a person under the age of 16 years at the date of issue of the summons has no effect.
- (2) A person who claims to be under the age of 16 years at the date of issue of a summons directed to the person must—
- (a) if the Supreme Court issued the summons, give notice in writing and proof of age to the Supreme Court and the Chief Examiner; or
  - (b) if the Chief Examiner issued the summons, give notice in writing and proof of age to the Chief Examiner.

#### **17 Service of witness summonses**

- (1) A witness summons directed to a natural person must be served by delivering a copy of the summons to the person personally.
- (2) A witness summons directed to a body corporate must be served by sending a copy of the witness summons by registered post to the head office, a registered office, a principal office or a principal place of business of the body corporate or to a postal address of the body corporate.
- (3) If it appears to the Supreme Court that service of a witness summons has not been or is unlikely to be effected, the Court may make an order for substituted service.

## 18 Witness already held in custody

- (1) This section applies if a coercive powers order is in force in respect of an organised crime offence.
- (2) If a person is held in a prison or police gaol, a police officer may apply to the Supreme Court or the Chief Examiner for an order that the person be delivered into the custody of the police officer for the purpose of bringing the person before the Chief Examiner to give evidence at an examination.
- (3) If the application under subsection (2) is made to the Supreme Court, section 14(4), (5), (6), (7) and (11) apply as if a reference to—
  - (a) a summons were a reference to an order referred to in subsection (2); and
  - (b) issuing a summons were a reference to making an order referred to in subsection (2).
- (4) If the application under subsection (2) is made to the Chief Examiner, section 15(3), (4), (5), (6) and (10) apply as if a reference to—
  - (a) a summons were a reference to an order referred to in subsection (2); and
  - (b) issuing a summons were a reference to making an order referred to in subsection (2).
- (5) An order made on application under subsection (2)—
  - (a) must be in the prescribed form; and
  - (b) must include a statement that if the person who is the subject of the application is under the age of 16 years at the date of issue of the order, the order is of no effect and the person is not required to attend the examination; and

S. 18(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.6(a)).

s. 19

(c) if the person is aged 16 years or over, has effect as a suspension of a direction in a warrant of commitment to deliver the person to the place of detention specified in the warrant or to hold the person in that place (as the case may be).

(6) If the Supreme Court makes an order on application under subsection (2), the applicant must cause a copy of the order to be given to the Chief Examiner as soon as practicable after the order is made.

S. 18(7)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.6(b)).

(7) At the cessation of giving evidence at an examination before the Chief Examiner or on release from compliance with the order by the Chief Examiner, the police officer must deliver the person who is the subject of the order to the place of detention at which the person was held or detained at the time of the application for the order.

S. 18(8)  
inserted by  
No. 87/2009  
s. 7,  
amended by  
No. 87/2009  
s. 8.

(8) If an order is made under this section, sections 12C, 13, 16, 37(5) and 49 apply as if a reference in those sections to a witness summons issued under section 14 or 15 included a reference to an order under this section.

## 19 Witness expenses

- (1) A person who attends before the Chief Examiner in answer to a witness summons is entitled to be paid the same allowances and expenses that would be payable to a Crown witness in a criminal proceeding in the Magistrates' Court.
- (2) The allowances and expenses are to be paid by the Chief Commissioner.

## 20 Confidentiality of witness summons and orders

- (1) Subject to subsections (2) and (3), the Supreme Court or the Chief Examiner may give a person to whom a witness summons is issued under this Part or in respect of whom an order is made under section 18 or any person who executes an order under section 18 a written notice stating—
- (a) that the summons or order is a confidential document; and
  - (b) that it is an offence to disclose to anyone else, except in the circumstances, if any, specified in the notice, the existence of the document or the subject-matter of the organised crime offence in relation to which the summons was issued or the order was made or any official matter connected with the summons or order, unless the person has a reasonable excuse.
- (2) The Supreme Court or the Chief Examiner must give a notice under subsection (1) if satisfied that failure to do so—
- (a) would reasonably be expected to prejudice—
    - (i) the safety of a person; or
    - (ii) the fair trial of a person who has been or may be charged with an offence; or
    - (iii) the effectiveness of an investigation of the organised crime offence in relation to which the summons was issued or the order was made; or
  - (b) would otherwise be contrary to the public interest.
- (3) The Supreme Court or the Chief Examiner may give a notice under subsection (1) if satisfied that failure to do so—

S. 20(2)  
substituted by  
No. 55/2014  
s. 158(1).

S. 20(3)  
substituted by  
No. 55/2014  
s. 158(1).



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- (a) might prejudice the effectiveness of an investigation of the organised crime offence in relation to which the summons was issued or the order was made; or
- (b) might otherwise be contrary to the public interest.
- (4) If the Supreme Court gives a notice under subsection (1), the applicant for the witness summons or order under section 18, as the case may be, must give a copy of the notice to the Chief Examiner.
- (5) If the Supreme Court or the Chief Examiner gives a notice under subsection (1), a person must not, without reasonable excuse, disclose to anyone else, except in the circumstances, if any, specified in the notice—
- (a) the existence of the witness summons or order; or
- (b) the subject-matter of the organised crime offence in relation to which the witness summons was issued or the order was made; or
- (c) any official matter connected with the witness summons or order.
- Penalty: 120 penalty units or imprisonment for 12 months or both.

- (6) It is a reasonable excuse for a person to disclose the existence of the witness summons or order or the subject-matter of the organised crime offence in relation to which it was issued or made or any official matter connected with the summons or order if—

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- (a) the disclosure is made for the purposes of—
- (i) seeking legal advice in relation to the summons or order or an offence against subsection (5); or
  - (ii) obtaining information in order to comply with the summons or order; or
  - (iii) the administration of this Act; and
- (b) the person informs the person to whom the disclosure is made that it is an offence to disclose to anyone else the existence of the summons or order or the subject-matter of the organised crime offence in relation to which it was issued or made or any official matter connected with the summons or order, unless the person has a reasonable excuse.
- (7) A notice under subsection (1) ceases to have effect if after the conclusion of the police investigation of the organised crime offence—
- (a) no evidence of an offence has been obtained; or
  - (b) evidence of one or more offences has been obtained but a decision has been made not to commence any criminal proceedings in which the evidence would be relevant; or
  - (c) evidence of one or more offences committed by only one person has been obtained and criminal proceedings have commenced against that person; or
  - (d) evidence of one or more offences committed by 2 or more persons has been obtained and—
    - (i) criminal proceedings have commenced against all those persons; or

s. 20

- (ii) criminal proceedings have commenced against one or more of those persons and the Chief Commissioner has been advised that no other persons will be prosecuted.
- (8) If a notice under subsection (1) ceases to have effect under subsection (7), the Chief Examiner must give notice in writing of that fact to each person who was given the notice under subsection (1).
- S. 20(8A) inserted by No. 3/2009 s. 6.
- (8A) If the Supreme Court or the Chief Examiner is satisfied that the circumstances referred to in subsection (2) or (3) that led to the giving of a notice under subsection (1) no longer apply, the Court or the Chief Examiner, as the case may be, must give written notice of that fact to the person to whom the notice under subsection (1) was given.
- S. 20(8B) inserted by No. 3/2009 s. 6.
- (8B) On the giving of the notice under subsection (8A), the notice under subsection (1) ceases to have effect.
- S. 20(8C) inserted by No. 3/2009 s. 6 (as amended by No. 55/2009 s. 56).
- (8C) A notice under subsection (1) ceases to have effect at the end of the period of 5 years after the notice is given (or that period as extended under subsection (8F)) unless the notice has ceased to have effect earlier.
- S. 20(8D) inserted by No. 3/2009 s. 6.
- (8D) Subsection (8C) applies to a notice given on or after, or which is in effect on, the commencement of section 6 of the **Major Crime Legislation Amendment Act 2009**.
- S. 20(8E) inserted by No. 3/2009 s. 6.
- (8E) If the Chief Examiner or the Chief Commissioner is satisfied that an extension to the 5-year period referred to in subsection (8C) is necessary to protect a matter specified in subsection (8F)(a), (b), (c) or (d), the Chief Examiner or the Chief

Commissioner must apply to the Supreme Court for an extension of that period.

(8F) The Supreme Court, on the application of the Chief Examiner or the Chief Commissioner under subsection (8E), may extend the 5-year period referred to in subsection (8C), if the Court is satisfied that an extension is necessary to protect—

S. 20(8F)  
inserted by  
No. 3/2009  
s. 6.

- (a) an investigation that is continuing (whether or not the investigation is, or is related to, the investigation in relation to which the witness summons was issued); or
- (b) any proceeding that has been commenced but not finally determined; or
- (c) the safety or reputation of a person; or
- (d) the fair trial of a person who has or may be charged with an offence.

(9) In this section—

*official matter* means any of the following—

- (a) the coercive powers order in reliance on which the witness summons was issued or the order under section 18 was made;
- (b) the investigation of the organised crime offence in relation to which the witness summons was issued or the order under section 18 was made;
- (c) an examination by the Chief Examiner for the purposes of that investigation;
- (d) any court proceedings in relation to the witness summons or the order under section 18.

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**PART 3—CHIEF EXAMINER AND EXAMINERS**

**21 Appointment of Chief Examiner and Examiners**

- (1) The Governor in Council may appoint—
  - (a) a Chief Examiner; and
  - (b) as many Examiners as are necessary for the purposes of this Act.
- (2) A person is eligible for appointment as Chief Examiner or an Examiner if he or she—
  - (a) is an Australian lawyer of at least 5 years' standing; and
  - (b) is not a member of the Parliament of Victoria or of the Commonwealth or of another State or a Territory of the Commonwealth.
- (3) The Chief Examiner or an Examiner may be appointed on a full-time, part-time or sessional basis.
- (4) In this section—

*Australian lawyer* has the same meaning as in the  
**Legal Profession Act 2004.**

S. 21(4) def. of  
*Australian  
lawyer*  
substituted by  
No. 18/2005  
s. 18(Sch. 1  
item 64.2).

**22 Remuneration and allowances**

The Chief Examiner or an Examiner is entitled to be paid the remuneration and allowances that are determined by the Governor in Council.

### 23 Terms and conditions

- (1) Subject to this Part, the Chief Examiner or an Examiner—
  - (a) holds office for the period, not exceeding 5 years, specified in his or her instrument of appointment; and
  - (b) is eligible for re-appointment; and
  - (c) holds office on the terms and conditions determined by the Governor in Council.
- (2) If the Chief Examiner or an Examiner is appointed on a full-time basis, he or she must not engage, directly or indirectly, in paid employment outside the duties of Chief Examiner or Examiner without the consent of the Governor in Council.
- (3) The **Public Administration Act 2004** does not apply to the Chief Examiner or an Examiner in respect of his or her office as such.

S. 23(3)  
amended by  
No. 108/2004  
s. 117(1)  
(Sch. 3  
item 120).

### 24 Vacancy, resignation, removal

- (1) The Chief Examiner or an Examiner ceases to hold office if he or she—
  - (a) resigns by notice in writing delivered to the Governor in Council; or
  - (b) becomes an insolvent under administration;  
or
  - (c) is found guilty of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence; or
  - (d) ceases to be an Australian lawyer; or

S. 24(1)(b)  
amended by  
No. 4/2008  
s. 32(Sch.  
item 19).

- (e) nominates for election for the Parliament of Victoria or of the Commonwealth or of any other State or any Territory of the Commonwealth; or
  - (f) is removed from office under subsection (2).
- (2) The Governor in Council may suspend or remove the Chief Examiner or an Examiner from office at any time.
- (3) If the Chief Examiner or an Examiner is suspended from office under subsection (2), he or she is deemed not to be the Chief Examiner or an Examiner during the period of suspension.

## **25 Validity of acts and decisions**

An act or decision of the Chief Examiner or an Examiner is not invalid only because of a defect or irregularity in or in connection with his or her appointment.

## **26 Conflict of interest**

The Chief Examiner or an Examiner must not perform any function or duty or exercise any power under this Act in relation to a matter if—

- (a) he or she has a personal interest (whether pecuniary or otherwise) in the matter; and
- (b) the interest appears to raise a conflict of interest with the proper performance of his or her function or duty, or the proper exercise of his or her power, in relation to the matter.

## **27 Management of Examiners**

Subject to any consultation with the Examiners that is appropriate and practicable, the Chief Examiner may make arrangements as to the Examiner who is to be able to exercise the powers of the Chief Examiner under this Act in relation to a coercive powers order.

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**28 Police assistance to Chief Examiner**

For the purposes of section 68, a member of Victoria Police personnel who assists or supports the Chief Examiner in relation to the performance of functions and duties and the exercise of powers of the Chief Examiner under this Act or is otherwise involved in an examination conducted by the Chief Examiner under this Act is performing a function under this Act.

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**S. 28**  
amended by  
**Nos 3/2009**  
**s. 7, 37/2014**  
**s. 10(Sch.**  
**item 103.7).**



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**PART 4—EXAMINATIONS**

**29 When Chief Examiner may conduct examinations**

- (1) The Chief Examiner may conduct an examination of a person in relation to an organised crime offence if—
- (a) the Chief Examiner has received a copy of a coercive powers order made in relation to the offence; and
  - (b) any of the following has occurred—
    - (i) the Chief Examiner has received a copy of a witness summons directed to the person requiring him or her to appear before the Chief Examiner at an examination to give evidence or produce specified documents or other things or do both; or
    - (ii) the Chief Examiner has issued such a witness summons directed to the person; or
    - (iii) the Chief Examiner has received a copy of an order made under section 18 in respect of the person; or
    - (iv) the Chief Examiner has made such an order in respect of the person.
- (2) The Chief Examiner may commence or continue to conduct an examination of a person despite the fact that any proceedings (whether civil or criminal) are on foot, or are instituted, in any court or tribunal that relate to or are otherwise connected with the subject-matter of the examination, including criminal proceedings against the person in respect of that subject-matter.

S. 29(2)  
amended by  
No. 55/2014  
s. 159.

- (3) If the Chief Examiner is or becomes aware that proceedings referred to in subsection (2) are on foot or have been instituted, the Chief Examiner must take all reasonable steps to ensure that the conduct of the examination does not prejudice those proceedings.

### 30 Conduct of examination

- (1) The Chief Examiner is not bound by the rules of evidence in conducting an examination and may regulate the conduct of proceedings as he or she thinks fit.
- (2) An examination must not be conducted at a police station or at a police gaol.
- (3) In subsection (2), *police station* means any police premises where a counter inquiry service for the public is provided.

S. 30(3)  
inserted by  
No. 3/2009  
s. 8.

### 31 Preliminary requirements

- (1) Subject to subsection (2), before any question is asked of the witness at an examination, or the witness produces a document or other thing, the Chief Examiner must—
- (a) confirm the age of the witness, if the Chief Examiner suspects that the witness may be under the age of 18 years;
- (b) if the person is under the age of 16 years, release the person from all compliance with the witness summons or the order made under section 18, as the case may be;
- (c) inform the witness that the privilege against self-incrimination does not apply but that there are restrictions on the use that can be made of evidence obtained in the course of the examination or from production of documents in accordance with the witness summons and specify those restrictions;

S. 31  
amended by  
No. 87/2009  
s. 9(1)(2)  
(ILA s. 39B(1)).

S. 31(1)(c)  
amended by  
No. 97/2004  
s. 9(1).

S. 31(1)(g)  
amended by  
No. 82/2012  
s. 107.

S. 31(2)  
inserted by  
No. 87/2009  
s. 9(2),  
substituted by  
No. 55/2014  
s. 160.

- (d) inform the witness that legal professional privilege applies and of the effect of that privilege but that, subject to that privilege, it is an offence not to answer questions or produce documents or other things when required or give false or misleading evidence and state the penalties for those offences;
  - (e) inform the witness of any confidentiality requirements applying to evidence or the fact of the issue of the witness summons or the making of the order under section 18, as the case may be;
  - (f) where applicable, inform the witness of his or her right to legal representation, to an interpreter or to have his or her parent or guardian or an independent person present with whom he or she may communicate before giving any evidence;
  - (g) inform the witness of his or her right of complaint to the Victorian Inspectorate and that the exercise of this right will not breach any confidentiality requirements referred to in paragraph (e).
- (2) If a witness attends an examination solely to produce documents on behalf of a body corporate—
- (a) subsection (1) does not apply if the witness elects to produce the documents without the requirements of that subsection having been complied with; or
  - (b) if the witness does not so elect, the Chief Examiner is only required to comply with subsection (1)(d), (e), (f) and (g) in relation to the witness.

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### **32 Witness under 16**

If at any time during an examination the Chief Examiner becomes aware that a witness is under the age of 16 years, the Chief Examiner must immediately release the person from all compliance with the witness summons or the order made under section 18, as the case may be.

### **33 Protection of legal practitioners and witnesses**

- (1) A legal practitioner representing a witness at an examination or a legal practitioner assisting the Chief Examiner in the examination, has the same protection and immunity as a legal practitioner has in representing a party in proceedings in the Supreme Court.
- (2) A person appearing as a witness at an examination before the Chief Examiner has the same protection and immunity as a witness has in proceedings in the Supreme Court.

### **34 Representation of witness**

- (1) A witness giving evidence at an examination may be represented by a legal practitioner.
- (2) If a person required to give evidence at an examination does not have knowledge of the English language that is sufficient to enable him or her to understand the questioning, the Chief Examiner must, before the examination commences, arrange for the presence of a competent interpreter and defer the examination until the interpreter is present.
- (3) If a person required to give evidence at an examination is a person believed to have a mental impairment, the Chief Examiner must direct—
  - (a) that an independent person is to be present during the examination, if the witness so wishes; and

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- (b) that the witness may communicate with the independent person before giving any evidence at the examination.
- (4) If a person required to give evidence at an examination is a person under the age of 18 years, the Chief Examiner must direct—
- (a) that a parent or guardian of the witness or an independent person is to be present during the examination, if the witness so wishes; and
- (b) that the witness may communicate with the parent, guardian or independent person before giving any evidence at the examination.

### **35 Examination to be held in private**

- (1) An examination must be held in private and the Chief Examiner may give directions as to the persons who may be present during the examination or a part of the examination.
- (2) Nothing in a direction given by the Chief Examiner under subsection (1) prevents the presence, when evidence is being taken at an examination before the Chief Examiner, of a legal practitioner representing the witness, an interpreter in accordance with section 34(2) or a parent or guardian of the witness or an independent person in accordance with section 34(3) or (4).
- (3) If an examination before the Chief Examiner is being held, a person must not be present at the examination unless he or she is entitled to be present by reason of a direction given by the Chief Examiner under subsection (1) or is otherwise authorised by the Chief Examiner to be present.
- (4) A person who is present at an examination in contravention of subsection (3) is guilty of an

indictable offence and liable to level 6 imprisonment (5 years maximum).

**35A Person may be examined without summons**

- (1) The Chief Examiner may require a person who—
- (a) is present at an examination; and
  - (b) is competent to give evidence at the examination—

to give evidence or to produce documents that are in the person's possession at the examination even if a witness summons requiring the person to attend for that purpose has not been served on the person in accordance with Part 2.

- (2) A person required to give evidence or to produce documents under subsection (1) is subject to the same penalties and liabilities as if the person had been served with a summons in accordance with Part 2.

**36 Taking of evidence**

- (1) At an examination—
- (a) the Chief Examiner; or
  - (b) a legal practitioner representing the witness; or
  - (c) any person authorised by the Chief Examiner to do so—

may, so far as the Chief Examiner thinks appropriate, examine or cross-examine any witness on any matter that the Chief Examiner considers relevant to the investigation of the organised crime offence to which the examination relates.

- (2) The Chief Examiner may, at an examination, take evidence on oath or affirmation and for that purpose—

S. 35A  
inserted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 35).

- (a) the Chief Examiner may require a person appearing at the examination to give evidence either to take an oath or to make an affirmation in the prescribed form; and
  - (b) the Chief Examiner may administer an oath or affirmation to a person so appearing at the examination.
- (3) A person appearing as a witness at an examination before the Chief Examiner must not, when required in accordance with subsection (2) either to take an oath or make an affirmation, refuse or fail to comply with the requirement.
- (4) A person who, without reasonable excuse, contravenes subsection (3) is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum).

### **37 Failure of witnesses to attend and answer questions**

- (1) A person served, as prescribed by this Act, with a witness summons to appear as a witness at an examination before the Chief Examiner must not, without reasonable excuse—
- (a) fail to attend as required by the summons; or
  - (b) fail to attend from day to day unless excused, or released from further attendance, by the Chief Examiner.
- (2) A person appearing as a witness before the Chief Examiner must not, without reasonable excuse—
- (a) at an examination, refuse or fail to answer a question that he or she is required to answer by the Chief Examiner; or
  - (b) refuse or fail to produce a document or other thing that he or she was required to produce by the witness summons.

S. 37(2)  
amended by  
No. 55/2014  
s. 161(a).

S. 37(2)(b)  
amended by  
No. 55/2014  
s. 161(b).

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- (3) A person who contravenes subsection (1) or (2) is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum).
  - (4) A person does not contravene subsection (2)(b) if under section 41—
    - (a) the Chief Examiner withdraws the requirement to produce the document or other thing that the person was required to produce by the witness summons; or
    - (b) the person seals the document or other thing and gives it to the Chief Examiner.
  - (5) A person does not contravene subsection (1) or (2) if the person is under the age of 16 years at the date of issue of the witness summons.

### **38 False or misleading evidence**

- (1) A person appearing as a witness at an examination before the Chief Examiner must not give evidence that the person knows is false or misleading in a material particular.
- (2) A person must not produce to the Chief Examiner in accordance with a witness summons a document or other thing that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.
- (3) A person who contravenes subsection (1) or (2) is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum).

### **39 Privilege against self-incrimination abrogated**

- (1) A person is not excused from answering a question or giving information at an examination, or from producing a document or other thing at an examination or in accordance with a witness summons, on the ground that the answer to the



question, the information, or the production of the document or other thing, might tend to incriminate the person or make the person liable to a penalty.

S. 39(1A)  
inserted by  
No. 55/2014  
s. 162(1).

- (1A) Subsection (1) applies whether or not the person has been or may be charged with an offence in respect of the subject-matter of the question, information, document or other thing.
- (2) Subsection (3) limits the use that can be made of any answers given at an examination before the Chief Examiner, or documents or other things produced at an examination before the Chief Examiner or in accordance with a witness summons.
- (3) The answer, or the document or other thing, is not admissible in evidence against the person in—
- (a) a criminal proceeding; or
  - (b) a proceeding for the imposition of a penalty—  
other than—
    - (c) proceedings in respect of an offence against this Act; or
    - (d) proceedings under the **Confiscation Act 1997**; or
    - (e) a proceeding in respect of—
      - (i) in the case of an answer, the falsity of the answer; or
      - (ii) in the case of the production of a document, the falsity of any statement contained in the document.

S. 39(4)  
inserted by  
No. 55/2014  
s. 162(2).

- (4) Nothing in subsection (3) prevents the admission in a criminal proceeding or proceeding for the imposition of a penalty of any evidence obtained as a direct or indirect consequence of an answer given at an examination or a document or other

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thing produced at an examination or in answer to a witness summons, and any such evidence is admissible in the proceeding in accordance with the rules of evidence applicable to the proceeding.

#### **40 Legal professional privilege**

(1) If—

- (a) a person is required to answer a question at an examination or produce a document before the Chief Examiner; and
- (b) the answer to the question would disclose, or the document contains, a communication that is recognised at law as privileged on the ground of legal professional privilege—

the person is, subject to subsection (2), entitled to refuse to comply with the requirement.

(2) Where—

- (a) a legal practitioner is required to answer a question at an examination or produce a document before the Chief Examiner; and
- (b) the answer to the question would disclose, or the document contains, a privileged communication made by or to the legal practitioner in his or her capacity as a legal practitioner—

the legal practitioner is entitled to refuse to comply with the requirement unless the person to whom or by whom the communication was made agrees to the legal practitioner complying with the requirement but, where the legal practitioner refuses to comply with the requirement, he or she must, if so required by the Chief Examiner, give the Chief Examiner the name and address of the person to whom or by whom the communication was made.

#### **41 Procedure for determining claims of legal professional privilege**

- (1) If a person claims at an examination or on production of a document or other thing before the Chief Examiner that the document or thing is the subject of legal professional privilege, the procedure set out in this section applies.
- (2) The claimant must attend before the Chief Examiner in accordance with the witness summons.
- (3) The Chief Examiner must consider the claim of privilege and either—
  - (a) withdraw the requirement to produce the document or other thing in relation to which the claim is made; or
  - (b) apply to the County Court or the Supreme Court in accordance with section 42 for determination of the claim of privilege.
- (4) The Chief Examiner must not inspect the document or other thing in considering the claim of privilege and may not make an authorisation under section 47.
- (5) If the Chief Examiner does not withdraw the requirement to produce the document or other thing in relation to which the claim of privilege is made, the Chief Examiner must require the claimant to seal the document or other thing immediately, and give it to the Chief Examiner.
- (6) As soon as practicable and in any event within 3 days after the sealing of the document or other thing, the Chief Examiner must give the sealed document or other thing, or cause it to be given, to the proper officer of the County Court or the Supreme Court to be held in safe custody.

S. 41(3)(b)  
amended by  
No. 3/2009  
s. 9(1)(a).

S. 41(6)  
amended by  
No. 3/2009  
s. 9(1)(b).

- (7) A person must not open a sealed document or other thing prior to delivery to the County Court or the Supreme Court.

S. 41(7)  
amended by  
No. 3/2009  
s. 9(1)(c).

**42 Application to County Court or Supreme Court to determine legal professional privilege**

S. 42  
(Heading)  
amended by  
No. 3/2009  
s. 9(1)(d).

- (1) Within 7 days after the Chief Examiner gives a sealed document or other thing to the proper officer of the County Court or the Supreme Court in accordance with section 41, the Chief Examiner may apply to that Court to determine whether or not the document or thing is the subject of legal professional privilege.

S. 42(1)  
amended by  
No. 3/2009  
s. 9(1)(e)(f).

- (2) If no application is made under subsection (1) within the period of 7 days, the proper officer having safe custody of the sealed document or other thing must return the document or thing to the claimant for legal professional privilege.

S. 42(2)  
amended by  
No. 3/2009  
s. 9(1)(g).

- (3) The Chief Examiner must give notice in the prescribed form of the application to the claimant for legal professional privilege a reasonable time before the hearing of the application.

- (4) The claimant is entitled to appear and be heard on the hearing of the application.

- (5) The County Court or the Supreme Court, as the case may be, must determine whether or not the sealed document or other thing is the subject of legal professional privilege and for that purpose the judge (not being an associate judge) and any other person authorised by the Court may open and inspect the sealed document or other thing.

S. 42(5)  
amended by  
No. 3/2009  
s. 9(1)(h)(i).

- (6) If the County Court or the Supreme Court, as the case may be, determines that the sealed document or other thing is the subject of legal professional privilege, the Court must order that the document or other thing be returned to the claimant and the

S. 42(6)  
amended by  
No. 3/2009  
s. 9(1)(g)(j).

proper officer of the Court who has safe custody of the document or thing must return it to the claimant.

S. 42(7)  
amended by  
No. 3/2009  
s. 9(1)(g)(i).

(7) If the County Court or the Supreme Court, as the case may be, determines that the sealed document or other thing is not the subject of legal professional privilege, the Court must order that the document or thing be given to the Chief Examiner and the proper officer having safe custody of the document or thing must release it accordingly.

(8) Subject to subsection (5), a person must not open a sealed document or other thing or otherwise have access to the document or thing before—

S. 42(8)(a)  
amended by  
No. 3/2009  
s. 9(1)(j).

- (a) the County Court or the Supreme Court, as the case may be, determines the claim of legal professional privilege; or
- (b) the document or thing is returned to the claimant.

Penalty: 120 penalty units or imprisonment for 12 months or both.

S. 42(9)  
inserted by  
No. 3/2009  
s. 9(2).

- (9) Section 41 and this section as in force immediately before the commencement of section 9 of the **Major Crime Legislation Amendment Act 2009** continue to apply to—
- (a) any application made to the Magistrates' Court under this section before that commencement; and
  - (b) any document or thing given to the registrar of the Magistrates' Court under section 41 before that commencement.

### 43 Restriction on publication of evidence

- (1) The Chief Examiner may direct that—
- (a) any evidence given before the Chief Examiner; or
  - (b) the contents of any document, or a description of any thing, produced to the Chief Examiner; or
  - (c) any information that might enable a person who has given evidence before the Chief Examiner to be identified; or
  - (d) the fact that any person has given or may be about to give evidence at an examination—

must not be published or communicated, or must not be published or communicated except in such manner, and to such persons, as the Chief Examiner specifies.

- (2) The Chief Examiner must give a direction under subsection (1) if satisfied that failure to do so would reasonably be expected to prejudice—
- (a) the safety of a person; or
  - (b) the fair trial of a person who has been or may be charged with an offence.

S. 43(2)  
substituted by  
No. 55/2014  
s. 163(1).

- (2A) To avoid doubt, a reference in subsection (2)(a) or (b) to a person includes a person who has given, or may be about to give, evidence before the Chief Examiner or produced, or may be about to produce, a document or other thing to the Chief Examiner.

S. 43(2A)  
inserted by  
No. 55/2014  
s. 163(1).

- (3) A person who makes a publication or communication in contravention of a direction given under subsection (1) is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum).

s. 43A

S. 43(4)  
substituted by  
No. 55/2014  
s. 163(2).

- (4) If a person is charged with an offence against this Act, nothing in this section or section 43A prevents restricted evidence from being published or communicated by the Chief Examiner or the Chief Commissioner to the court or to the person charged or a legal practitioner representing the person charged.

S. 43(4A)  
inserted by  
No. 3/2009  
s. 10 (as  
amended by  
No. 87/2009  
s. 11),  
repealed by  
No. 55/2014  
s. 163(3).

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S. 43(5)  
amended by  
No. 87/2009  
s. 10,  
repealed by  
No. 55/2014  
s. 163(3).

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S. 43(6)  
amended by  
No. 82/2012  
s. 108.

- (6) Nothing in this section empowers the Chief Examiner to give a direction under subsection (1) that would restrict the exercise of powers or the performance of duties by the Victorian Inspectorate under this Act or any other Act or affect a person's right under this Act or any other Act to complain to the Victorian Inspectorate.

S. 43A  
inserted by  
No. 55/2014  
s. 164.

**43A Release of restricted evidence to a person charged with an offence**

- (1) If a court considers that it may be desirable in the interests of justice that restricted evidence be made available to a person charged with an offence before the court, or to a legal practitioner representing a person charged, the court, on the application of the Chief Commissioner, the Director of Public Prosecutions or the person charged, may give the Chief Examiner or the Chief Commissioner a certificate to that effect.

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- (2) If the court gives a certificate under subsection (1), the Chief Examiner or the Chief Commissioner (as the case requires) must make the restricted evidence available to the court.
  - (3) If restricted evidence is made available to a court under subsection (2), the court must give each person referred to in subsection (4) an opportunity to make submissions to the court as to whether or not the restricted evidence should be made available, in whole or part, to the person charged or a legal practitioner representing the person charged.
  - (4) For the purposes of subsection (3), the persons are—
    - (a) the Chief Examiner; and
    - (b) the Chief Commissioner; and
    - (c) if the direction under section 43(1) in relation to the restricted evidence involves the interests of a witness, the witness.
  - (5) The court may make the restricted evidence available to the person charged or a legal practitioner representing the person charged, and to the Director of Public Prosecutions, if, after examining the restricted evidence and considering any submissions made under subsection (3), the court is satisfied that the interests of justice so require.

**43B Release of restricted evidence where person not yet charged**

- (1) The Chief Commissioner may apply to a court for an order that restricted evidence be made available to the Director of Public Prosecutions for the purpose of prosecuting a person for an offence if the Chief Commissioner suspects on reasonable grounds that there are reasonable prospects for the

S. 43B  
inserted by  
No. 55/2014  
s. 164.



conviction of a person for an offence if the evidence is made so available.

- (2) On an application under subsection (1), the court may direct the Chief Examiner or the Chief Commissioner to make the restricted evidence available to the court.
- (3) If the court gives a direction under subsection (2), the Chief Examiner or the Chief Commissioner (as the case requires) must make the restricted evidence available to the court.
- (4) If restricted evidence is made available to the court under subsection (3), the court must give each person referred to in subsection (5) an opportunity to make submissions to the court as to whether or not the restricted evidence should be made available, in whole or part, to the Director of Public Prosecutions for the purpose of prosecuting a person for an offence.
- (5) For the purposes of subsection (4), the persons are—
  - (a) the Chief Examiner; and
  - (b) the Chief Commissioner; and
  - (c) the Director of Public Prosecutions; and
  - (d) if the direction under section 43(1) in relation to the restricted evidence involves the interests of a witness, the witness.
- (6) The court may, by order, make the restricted evidence available to the Director of Public Prosecutions for the purpose of prosecuting a person for an offence if, after examining the restricted evidence and considering any submissions made under subsection (4), the court is satisfied that—

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- (a) there are reasonable grounds for the suspicion founding the application for the order; and
  - (b) the interests of justice require the evidence to be made so available.
- (7) If restricted evidence is made available to the Director of Public Prosecutions under this section and a person is subsequently charged with an offence as a result, nothing in this Act prevents the Director of Public Prosecutions from making the evidence available to the person charged or a legal practitioner representing the person charged.
- (8) In this section—
- court* means the Supreme Court or the County Court.

#### **44 Hindering or obstructing Chief Examiner or disrupting examination**

A person must not—

- (a) hinder or obstruct the Chief Examiner in the exercise of his or her functions, powers or duties; or
- (b) disrupt an examination before the Chief Examiner.

Penalty: 10 penalty units or imprisonment for 12 months or both.

#### **45 Video-recording of examination**

- (1) The Chief Examiner must ensure that the examination of a witness before the Chief Examiner is video-recorded.
- (2) Subject to subsection (3), evidence of anything said by a witness at an examination before the Chief Examiner is inadmissible as evidence against any person in any proceedings unless the examination of the witness in its entirety was

video-recorded and the video-recording is available to be tendered in evidence.

- (3) A court may admit evidence of anything said by a witness at an examination before the Chief Examiner that is otherwise inadmissible by reason of subsection (2) if the court is satisfied on the balance of probabilities that the circumstances—
- (a) are exceptional; and
  - (b) justify the reception of the evidence.
- (4) The Chief Examiner must ensure that a copy of the video-recording of an examination of a witness is provided, on request, to the police officer who applied for the coercive powers order with respect to which the examination was conducted.

S. 45(4)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.8).

#### 46 Warrant for arrest of witness

- (1) Where, on application by a police officer, the Court is satisfied by evidence on oath that there are reasonable grounds to believe—
- (a) that a person in relation to whom a witness summons has been issued under Part 2—
    - (i) has absconded or is likely to abscond; or
    - (ii) is otherwise attempting, or is otherwise likely to attempt, to evade service of the summons; or
  - (b) that a person has committed an offence under section 37(1) or is likely to do so—

the Court may issue a warrant for the arrest of the person.

S. 46(1)  
amended by  
Nos 3/2009  
s. 11(1),  
37/2014  
s. 10(Sch.  
item 103.8).

(2) The warrant may be executed by any police officer and the person executing it has power to break into and enter any premises, vessel, aircraft or vehicle for the purpose of executing it.

S. 46(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.8).

(3) The warrant may be executed even if the warrant is not at the time in the possession of the person executing it.

(4) A person executing the warrant may only use the reasonable force that is necessary for the execution of the warrant.

(5) A person arrested under the warrant must be brought, as soon as practicable, before the Court and the Court may—

S. 46(5)  
amended by  
No. 3/2009  
s. 11(1),  
substituted by  
No. 55/2014  
s. 165(1).

(a) discharge the person from custody on bail in accordance with the **Bail Act 1977** as if the person had been accused of an offence; or

(b) order the continued detention of the person in a prison or police gaol for the purpose of ensuring the person's appearance as a witness before the Chief Examiner until the person has concluded giving evidence; or

(c) order that the person be discharged from custody unconditionally.

(6) Where a person is under detention under this section, the person must, within 14 days after he or she was brought, or last brought, before the Court in accordance with this section, or within such shorter or longer time as the Court has fixed on the last previous appearance of the person before the Court under this section, be again brought before the Court and the Court may then exercise any of the powers of the Court under subsection (5).

S. 46(6)  
amended by  
No. 3/2009  
s. 11(1).

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S. 46(7)  
repealed by  
No. 55/2014  
s. 165(2)(a).

s. 47

S. 46(8)  
amended by  
Nos 3/2009  
s. 11(1),  
37/2014  
s. 10(Sch.  
item 103.8),  
55/2014  
s. 165(2)(b).

(8) If a person is detained in a prison or police gaol in accordance with an order made under subsection (5)(b), the Court may make an order for the person to be delivered into the custody of a police officer for the purpose of bringing the person before the Chief Examiner.

S. 46(9)  
inserted by  
No. 3/2009  
s. 11(2).

(9) In this section *Court* means—  
(a) in the case of a witness summons issued under section 14, the Supreme Court; and  
(b) in the case of a witness summons issued under section 15, the Supreme Court or the County Court.

#### **47 Documents or other things produced to Chief Examiner**

S. 47(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.9(a)).

(1) If a document or other thing is produced at an examination or to the Chief Examiner in accordance with a witness summons, the Chief Examiner may inspect the document or thing and may then authorise in writing a police officer to do any one or more of the following—

S. 47(1)(b)  
amended by  
Nos 97/2004  
s. 9(2),  
37/2014  
s. 10(Sch.  
item 103.9(a)).

(a) inspect the document or thing;  
(b) in the case of a document, take extracts from it or make copies of it, if the police officer considers it necessary for the purposes of the investigation of the organised crime offence;

S. 47(1)(c)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.9(a)).

(c) take any photographs or audio or visual recordings of the document or thing that the police officer considers necessary for the purposes of the investigation of the organised crime offence;

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- (d) subject to this section, retain the document or thing if, and for so long as, the police officer considers that retention of the document or thing is reasonably necessary—
- (i) for the purposes of an investigation into an organised crime offence; or
  - (ii) to enable evidence of an organised crime offence to be obtained for the purposes of any proceeding in relation to that offence.
- (2) For the purpose of doing anything referred to in subsection (1)(a), (b) or (c), the Chief Examiner may authorise the police officer to retain the document or other thing for a period not exceeding 7 days that is necessary to do that thing.
- (3) If a police officer retains a document or other thing under subsection (1)(d) for a period exceeding 7 days, he or she must, as soon as practicable, bring the document or thing before the Magistrates' Court so that the matter may be dealt with according to law.
- (4) A thing that is bulky or cumbersome may be brought before the Magistrates' Court by giving evidence on oath to the Court as to the present whereabouts of the thing and by producing a photograph of it.
- (5) The Magistrates' Court may direct that the thing be returned to the person who produced it to the Chief Examiner, subject to any condition that the Court thinks fit, if in the opinion of the Court it can be returned consistently with the interests of justice.
- (6) If a police officer retains a document or other thing under subsection (1)(d), he or she must take reasonable steps to return the document or thing to
- S. 47(1)(d)**  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.9(a)).
- S. 47(2)**  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.9(b)).
- S. 47(3)**  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.9(c)).
- S. 47(6)**  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.9(c)).

the person who produced it to the Chief Examiner if the reason for its retention no longer exists.

- (7) If the document or thing retained has not been returned to the person who produced it to the Chief Examiner, the person may apply to the Magistrates' Court at any time for its return.

#### 48 Court proceedings

S. 48  
(Heading)  
amended by  
No. 3/2009  
s. 11A(a) (as  
amended by  
No. 55/2009  
s. 57).

- (1) Proceedings in a court under section 42 or 47 must not be conducted in open court.

S. 48(1)  
amended by  
No. 3/2009  
s. 11A(b) (as  
amended by  
No. 55/2009  
s. 57).

- (2) Unless the court otherwise orders, a person must not publish a report of the whole or any part of a proceeding in a court under section 42 or 47 or of any information derived from such a proceeding.

S. 48(2)  
amended by  
No. 3/2009  
s. 11A(c)(d)  
(as amended  
by  
No. 55/2009  
s. 57).

- (3) A person who contravenes subsection (2) is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum).

#### 49 Contempt of Chief Examiner

- (1) A person attending before the Chief Examiner in answer to a witness summons is guilty of a contempt of the Chief Examiner if the person—
- (a) fails without reasonable excuse to produce any document or other thing the person is required by the witness summons to produce;  
or

- 
- (b) being called or examined as a witness at an examination, refuses to be sworn or to make an affirmation or, without reasonable excuse, refuses or fails to answer any question relevant to the subject-matter of the examination; or
- (c) engages in any other conduct that would, if the Chief Examiner were the Supreme Court, constitute a contempt of that Court.
- (2) If it is alleged or appears to the Chief Examiner that a person is guilty of contempt of the Chief Examiner, the Chief Examiner may—
- (a) issue a written certificate charging the person with contempt and setting out or attaching details of the alleged contempt (*certificate of charge*); and
- (b) issue a warrant to arrest the person (*arrest warrant*).
- (3) An arrest warrant—
- (a) may be directed to—
- (i) a named police officer; or
- (ii) generally all police officers; and
- (b) authorises the person to whom it is directed to arrest the person named in the warrant.

S. 49(3)(a)(i)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.10(a)(i)).

S. 49(3)(a)(ii)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.10(a)(ii)).



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- (4) A person who is arrested under an arrest warrant—
- (a) is to be brought before the Supreme Court forthwith to be dealt with according to law; and
  - (b) may be detained in police custody in the meantime.
- (5) If the Chief Examiner is satisfied that there are reasonable grounds to believe that it is necessary to prevent the arrested person from escaping from police custody or to ensure the safety of the person, the Chief Examiner may direct that the person be detained in a prison or a police gaol for the purpose of ensuring his or her appearance before the Supreme Court.
- (6) If a person detained in police custody under this section, other than a person detained in accordance with a direction under subsection (5), is required to be detained overnight, the Chief Commissioner must arrange for the person to be provided with accommodation and meals to a standard comparable to that generally provided to jurors kept together overnight.
- (7) If a person is detained in a prison in accordance with a direction under subsection (5), the Chief Examiner may give a written direction for the person to be delivered into the custody of a police officer for the purpose of bringing the person before the Supreme Court.
- (8) If it is not practicable for the person to be brought before the Supreme Court forthwith after he or she is arrested—
- (a) the person for the time being in charge of the place where he or she is detained must—

S. 49(7)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.10(b)).

- (i) advise the person that he or she is entitled to apply to a bail justice for discharge from custody; and
  - (ii) give the person a written statement of his or her right to apply; and
- (b) if the person elects to apply, the person for the time being in charge of the place where he or she is detained must—
  - (i) cause the person to be brought before a bail justice as soon as practicable; and
  - (ii) cause to be produced before the bail justice the arrest warrant and the certificate of charge for the person; and
  - (iii) abide by the decision of the bail justice in relation to the person.
- (9) When a person is brought before a bail justice under subsection (8), the bail justice may discharge the person from custody on bail in accordance with the **Bail Act 1977** as if the person had been accused of an offence.
- (10) A contempt of the Chief Examiner is to be dealt with by the Supreme Court as if—
  - (a) the contempt were a contempt of an inferior court; and
  - (b) the certificate of charge were an application to the Supreme Court for punishment for the contempt.
- (11) A certificate of charge is evidence of the matters set out in or attached to it.

\* \* \* \* \*

S. 49(12)  
amended by  
Nos 60/2008  
s. 3(1),  
67/2011 s. 4,  
repealed by  
No. 55/2014  
s. 166.

**s. 50**

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**50 No double jeopardy**

**S. 50(1)**  
amended by  
No. 97/2004  
s. 9(3).

- (1) If an act or omission constitutes both an offence against this Act and a contempt of the Chief Examiner, the offender is liable to be proceeded against for the offence or for contempt or both, but is not liable to be punished more than once for the same act or omission.

**S. 50(2)**  
amended by  
Nos 60/2008  
s. 3(2),  
67/2011 s. 5,  
repealed by  
No. 55/2014  
s. 166.

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**PART 5—OVERSIGHT BY VICTORIAN INSPECTORATE**

**Pt 5 (Heading)**  
amended by  
**No. 82/2012**  
s. 109.

**51 Functions of the Victorian Inspectorate under this Part**

**S. 51**  
substituted by  
**No. 82/2012**  
s. 110.

The functions of the Victorian Inspectorate under this Part are—

- (a) to monitor compliance with this Act by the Chief Examiner, the Examiners, the Chief Commissioner and other police officers; and
- (b) to assess the relevance of any questions asked by the Chief Examiner or an Examiner during an examination to the investigation of the organised crime offence in relation to which the coercive powers order was made; and
- (c) to assess the relevance of any requirement made by the Chief Examiner or an Examiner for a person to produce a document or other thing to the investigation of the organised crime offence in relation to which the coercive powers order was made; and
- (d) to assess the effectiveness and appropriateness of the policies and procedures of the Chief Examiner which relate to the legality and propriety of the Chief Examiner's activities; and

**S. 51(a)**  
amended by  
**No. 37/2014**  
s. 10(Sch.  
item 103.11).

s. 52

- (e) to formulate recommendations and make reports as a result of performing functions under paragraphs (a), (b), (c) and (d).

Note to s. 51 amended by Nos 82/2012 s. 311(a), 70/2013 s. 3 (Sch. 1 item 28.3).

**Note**

See also section 11(2)(g) and (h) of the **Victorian Inspectorate Act 2011**.

S. 52 (Heading) amended by No. 82/2012 s. 111(1).

**52 Chief Examiner must report witness summonses and orders to Victorian Inspectorate**

S. 52 amended by No. 82/2012 s. 111(2).

The Chief Examiner must give a written report to the Victorian Inspectorate within 3 days after the issue of a witness summons, or the making of an order under section 18, by the Chief Examiner setting out—

- (a) the name of the person summoned or in respect of whom the order was made; and
- (b) the reasons the summons was issued or the order was made.

S. 53 (Heading) amended by No. 82/2012 s. 112(1).

**53 Chief Examiner must report other matters to Victorian Inspectorate**

S. 53(1) amended by No. 82/2012 s. 112(2).

- (1) As soon as practicable after an examination has been completed, the Chief Examiner must give a written report to the Victorian Inspectorate, setting out—
- (a) the reasons for the examination and the place and time of the examination; and
  - (b) the name of the witness and of any other person who was present during the examination; and

- (c) the relevance of the examination to the organised crime offence in relation to which the coercive powers order was made; and
  - (d) any other prescribed matters.
- (2) A report under subsection (1) must include a copy of the video-recording made under section 45 and, if a transcript is prepared, a copy of the transcript.

S. 53(2)  
amended by  
No. 87/2005  
s. 12.

#### 54 Complaint to Victorian Inspectorate

A person to whom a witness summons is directed or who is the subject of an order under section 18 may make a complaint to the Victorian Inspectorate in accordance with section 43(7) and (8) of the **Victorian Inspectorate Act 2011**.

S. 54  
amended by  
No. 97/2004  
s. 6,  
substituted by  
No. 82/2012  
s. 113,  
amended by  
No. 82/2012  
s. 311(b).

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S. 55  
repealed by  
No. 82/2012  
s. 114.

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S. 56  
repealed by  
No. 82/2012  
s. 115.

#### 57 Recommendations by Victorian Inspectorate

S. 57  
(Heading)  
amended by  
No. 82/2012  
s. 116(1).

- (1) The Victorian Inspectorate may at any time make recommendations to the Chief Examiner or the Chief Commissioner as to the taking of any action that the Victorian Inspectorate considers should be taken.
- (2) Without limiting subsection (1), recommended action may include—
- (a) taking steps to prevent any conduct from continuing or occurring in the future;

S. 57(1)  
amended by  
No. 82/2012  
s. 116(2).

(b) taking action to remedy any harm or loss arising from any conduct.

S. 57(3)  
amended by  
No. 82/2012  
s. 116(2).

(3) The Victorian Inspectorate may require the Chief Examiner or the Chief Commissioner to give a report to the Victorian Inspectorate, within the time specified by the Victorian Inspectorate stating—

S. 57(3)(a)  
amended by  
No. 82/2012  
s. 116(2).

(a) whether or not the Chief Examiner or Chief Commissioner has taken, or proposes to take, any action recommended by the Victorian Inspectorate; and

(b) if the Chief Examiner or Chief Commissioner has not taken any recommended action, or proposes not to take any recommended action, the reasons for not taking or proposing to take the action.

S. 57(4)  
amended by  
No. 82/2012  
s. 116(2).

(4) The Chief Examiner or the Chief Commissioner must comply with a requirement of the Victorian Inspectorate under subsection (3).

S. 58  
substituted by  
No. 82/2012  
s. 117.

## **58 Requirement to provide assistance**

(1) The Chief Examiner and each Examiner must give the Victorian Inspectorate any assistance the Victorian Inspectorate reasonably requires to enable the Victorian Inspectorate to perform its functions under this Act or any other Act.

S. 58(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.12).

(2) The Chief Commissioner must give, and must ensure that each police officer gives, the Victorian Inspectorate any assistance the Victorian Inspectorate reasonably requires to enable the Victorian Inspectorate to perform its functions under this Act or any other Act.

## 59 Powers of entry and access

- (1) For the purpose of performing the Victorian Inspectorate's functions under this Part, the Victorian Inspectorate—
- (a) after notifying the Chief Examiner or the Chief Commissioner (as the case requires), may enter at any reasonable time premises occupied by the Chief Examiner or Victoria Police; and
- (b) is entitled to have full and free access at all reasonable times to all records of the Chief Examiner or Victoria Police that are relevant to the performance of the Victorian Inspectorate's functions; and
- (c) may require the Chief Examiner, an Examiner or a police officer to give the Victorian Inspectorate any information that the Victorian Inspectorate considers necessary, being information—
- (i) that is in the person's possession, or to which the person has access; and
- (ii) that is relevant to the performance of the Victorian Inspectorate's functions.
- (2) The Victorian Inspectorate may exercise a power under this section only if the Victorian Inspectorate considers that the Chief Examiner or the Chief Commissioner (as the case requires) has wilfully—
- (a) failed to provide information that the Chief Examiner or Chief Commissioner is required to provide in a report to the Victorian Inspectorate under this Act; or
- (b) failed to comply with section 58.

S. 59(1)  
amended by  
No. 82/2012  
s. 118(1)(a)(c).

S. 59(1)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.13(a)).

S. 59(1)(b)  
amended by  
Nos 82/2012  
s. 118(1)(b),  
37/2014  
s. 10(Sch.  
item  
103.13(a)).

S. 59(1)(c)  
amended by  
Nos 82/2012  
s. 118(1)(c),  
37/2014  
s. 10(Sch.  
item  
103.13(b)).

S. 59(1)(c)(ii)  
amended by  
No. 82/2012  
s. 118(1)(b).

S. 59(2)  
amended by  
No. 82/2012  
s. 118(2).

S. 59(2)(a)  
amended by  
No. 82/2012  
s. 118(2)(b).



## 60 Requirement to answer questions and produce documents

S. 60(1)  
amended by  
Nos 82/2012  
s. 119(a),  
37/2014  
s. 10(Sch.  
item 103.14).

- (1) The Victorian Inspectorate may, by written notice, require the Chief Examiner, an Examiner or a police officer to—

S. 60(1)(a)  
amended by  
No. 82/2012  
s. 119(a).

- (a) attend the Victorian Inspectorate at a specified time and place to answer any questions or provide any information; or

S. 60(1)(b)  
amended by  
No. 82/2012  
s. 119(a).

- (b) produce any document or other thing that is in the person's possession or control and that is relevant to the functions of the Victorian Inspectorate under this Part.

- (2) A person who is given a notice under subsection (1) must not, without reasonable excuse—

S. 60(2)(b)  
amended by  
No. 82/2012  
s. 119(a).

- (a) fail to attend or to produce any document or other thing as required by the notice; or  
(b) refuse or fail to answer a question that he or she is required to answer by the Victorian Inspectorate; or

S. 60(2)(c)  
amended by  
No. 82/2012  
s. 119(a).

- (c) refuse or fail to provide any information that he or she is required to provide by the Victorian Inspectorate.

- (3) A person who is given a notice under subsection (1) must not give any answer or provide any information that he or she knows is false or misleading in a material particular.

- (4) A person who contravenes subsection (2) or (3) is guilty of an indictable offence and is liable to level 6 imprisonment (5 years maximum).

S. 60(5)  
amended by  
No. 82/2012  
s. 119.

- (5) The Victorian Inspectorate may exercise a power under this section only if the Victorian Inspectorate considers that the Chief Examiner or

the Chief Commissioner (as the case requires) has wilfully—

- (a) failed to provide information that the Chief Examiner or Chief Commissioner is required to provide in a report to the Victorian Inspectorate under this Act; or
- (b) failed to comply with section 58.

S. 60(5)(a)  
amended by  
No. 82/2012  
s. 119(a).

**61 Annual and other reports by Victorian Inspectorate**

S. 61  
(Heading)  
amended by  
No. 82/2012  
s. 120(1).

(1) As soon as practicable after the end of each financial year, the Victorian Inspectorate must cause a report to be laid before each House of the Parliament in relation to the performance of the Victorian Inspectorate's functions under this Part.

S. 61(1)  
amended by  
No. 82/2012  
s. 120(2).

(2) The report must include details of the following matters—

(a) compliance with this Act during the financial year by the Chief Examiner, Examiners, the Chief Commissioner and other police officers; and

S. 61(2)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 103.15).

(b) the extent to which—

S. 61(2)(b)  
amended by  
No. 97/2004  
s. 9(4).

(i) any questions asked in examinations;  
and

(ii) any requirements to produce documents or other things—

during the financial year were relevant to the investigation of the organised crime offence in relation to which the relevant coercive powers order was made; and

(c) the comprehensiveness and adequacy of reports made to the Victorian Inspectorate by the Chief Examiner or the Chief

S. 61(2)(c)  
amended by  
No. 82/2012  
s. 120(3).

s. 63

Commissioner under this Act during the financial year; and

S. 61(2)(d)  
amended by  
No. 82/2012  
s. 120(3).

(d) the extent to which action recommended by the Victorian Inspectorate to be taken by the Chief Examiner or the Chief Commissioner has been taken during the financial year.

S. 61(3)  
amended by  
No. 82/2012  
s. 120(4).

(3) The Victorian Inspectorate may at any time cause a report to be laid before each House of the Parliament on any matter relevant to the performance of the Victorian Inspectorate's functions under this Part.

(4) A report under this section must not contain any information that identifies, or is likely to identify—

(a) any person who has been examined under this Act; or

(b) the nature of any ongoing investigation of an organised crime offence.

S. 62  
repealed by  
No. 82/2012  
s. 121.

\* \* \* \* \*

S. 63  
(Heading)  
substituted by  
No. 52/2012  
s. 20(1).

### **63 Application of privileges and provision of information, documents**

S. 63(1)  
amended by  
No. 82/2012  
s. 122.

(1) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or furnished to a person, where imposed by any enactment or any rule of law, applies to the disclosure of information to the Victorian Inspectorate under this Act.

S. 63(2)  
amended by  
No. 82/2012  
s. 122.

(2) A person is not, in relation to a requirement by the Victorian Inspectorate to answer a question, provide information or produce a document or other thing, entitled to any privilege in respect of

the production of documents or the giving of evidence as is allowed to the Crown by law in legal proceedings.

- (2A) A person is not, in relation to a requirement by the Victorian Inspectorate to answer a question, provide information or produce a document or other thing, entitled to the privilege provided for in Division 1C of Part 3.10 of the **Evidence Act 2008**. **S. 63(2A) inserted by No. 52/2012 s. 20(2), amended by No. 82/2012 s. 122.**
- (3) Subject to subsections (1), (2) and (2A), a person cannot be compelled by the Victorian Inspectorate under this Act to produce any document or give any evidence that the person could not be compelled to produce or give in proceedings before a court. **S. 63(3) amended by Nos 52/2012 s. 20(3), 82/2012 s. 122.**

#### 64 Obstruction

- (1) A person must not, without reasonable excuse, obstruct, hinder, threaten or abuse the Inspector in the performance of the Inspector's functions under this Act. **S. 64(1) amended by No. 82/2012 s. 123(1).**

Penalty: 10 penalty units or imprisonment for 12 months or both.

- (2) Proceedings may only be instituted for an offence under subsection (1)—

- (a) by the Inspector; or **S. 64(2)(a) substituted by No. 82/2012 s. 123(2).**
- (b) by or with the consent of the Director of Public Prosecutions.

**PART 6—MISCELLANEOUS**

**65 Delegation**

S. 65(1)  
amended by  
Nos 3/2009  
s. 12, 37/2014  
s. 10(Sch.  
item  
103.16(a)).

(1) The Chief Commissioner may, by instrument, delegate to a police officer of or above the rank of Assistant Commissioner of Police a power of the Chief Commissioner to approve applications for a coercive powers order or applications for the extension or variation of a coercive powers order or to make applications under section 20(8E).

S. 65(1A)  
inserted by  
No. 55/2014  
s. 167.

(1A) The Chief Commissioner may, by instrument, delegate to a police officer of or above the rank of inspector a power of the Chief Commissioner under section 43B.

S. 65(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.16(a)).

(2) The Chief Commissioner may, by instrument, delegate to a police officer of or above the rank of Commander a power of the Chief Commissioner under section 67.

S. 65(3)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.16(b)).

(3) Section 19 of the **Victoria Police Act 2013** does not apply to any power, discretion, function, authority or duty of the Chief Commissioner under this Act.

(4) The Chief Examiner may, by instrument, delegate to an Examiner any function, duty or power of the Chief Examiner under this Act other than—

S. 65(4)(a)  
substituted by  
No. 97/2004  
s. 7(1).

(a) the power to make arrangements under section 27; or

(b) this power of delegation.

S. 65(5)  
inserted by  
No. 97/2004  
s. 7(2),  
amended by  
No. 82/2012  
s. 124(1).

(5) The Victorian Inspectorate may, by instrument, delegate to an employee of the Victorian Inspectorate any function, duty or power of the Victorian Inspectorate under this Act other than—

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- (a) a duty or power to make a report under section 61; or
- (b) this power of delegation.

S. 65(5)(a)  
amended by  
No. 82/2012  
s. 124(2).

### 65A Deputy Commissioners of Victoria Police

A police officer who is a Deputy Commissioner appointed under section 21 of the **Victoria Police Act 2013** may exercise the powers and perform the functions of the Chief Commissioner under this Act as if the Deputy Commissioner were the Chief Commissioner.

S. 65A  
inserted by  
No. 37/2014  
s. 10(Sch.  
item 103.17).

### 66 Obligations of Chief Commissioner

The Chief Commissioner must—

- (a) ensure that records are kept as prescribed on any prescribed matter; and
- (b) ensure that a register is kept as prescribed of the prescribed matters in relation to all documents or other things retained under section 47 and that the register is available for inspection by the Victorian Inspectorate; and
- (c) report in writing to the Victorian Inspectorate every 6 months on such matters as are prescribed and on any other matter that the Victorian Inspectorate considers appropriate for inclusion in the report.

S. 66(b)  
amended by  
No. 82/2012  
s. 125(a).

S. 66(c)  
amended by  
No. 82/2012  
s. 125(b).

### 67 Information sharing

- (1) The Chief Commissioner may give to—
- (a) any law enforcement agency; or
- (b) any foreign law enforcement agency; or
- (c) any other agency or body of the State, the Commonwealth, another State or a Territory prescribed by the regulations—

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any information derived under a coercive powers order that is in the possession of the Chief Commissioner and that is relevant to the activities of that agency or body if—

- (d) it appears to the Chief Commissioner to be appropriate to do so; and
  - (e) to do so would not be contrary to a law of the State, the Commonwealth or that other State or that Territory that would otherwise apply.
- (2) The Chief Commissioner may, whenever it appears to the Chief Commissioner to be appropriate to do so, furnish to authorities and persons responsible for taking civil remedies by or on behalf of the Crown in right of the State or of the Commonwealth or of another State or of a Territory any information derived under a coercive powers order that is in the possession of the Chief Commissioner and that may be relevant for the purposes of so taking such remedies in respect of matters connected with, or arising out of, offences against the laws of the State, the Commonwealth or that other State or the Territory, as the case requires.
- (3) Where any information relating to the performances of the functions of—
- (a) a Department of State of the State or of the Commonwealth; or
  - (b) the Administration of a Territory; or
  - (c) an instrumentality of the State, the Commonwealth, another State or a Territory—

comes into the possession of the Chief Commissioner under a coercive powers order, the Chief Commissioner may, if he or she considers it desirable to do so, furnish that information to the

Department, the Administration or the instrumentality.

- (4) The Chief Commissioner may, whenever it appears to the Chief Commissioner to be appropriate to do so, furnish to the Australian Security Intelligence Organisation any information derived under a coercive powers order that is in the possession of the Chief Commissioner and that is relevant to security as defined in section 4 of the Australian Security Intelligence Organisation Act 1979 of the Commonwealth.

- (5) In this section—

*foreign law enforcement agency* means—

- (a) a police force (however described) of a foreign country; or
- (b) any other authority or person responsible for the enforcement of the laws of the foreign country;

*law enforcement agency* means—

- (a) the Australian Federal Police; or
- (b) a police force or police service of a State or a Territory; or
- (c) any other authority or person responsible for the enforcement of the laws of the Commonwealth or of a State or a Territory.

S. 67(5) def. of *law enforcement agency* amended by No. 37/2014 s. 10(Sch. item 103.18).

## 68 Secrecy

- (1) This section applies to—
- (a) the Chief Examiner; and
  - (b) an Examiner; and



Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004  
Part 6—Miscellaneous

s. 68

S. 68(1)(c)(d)  
repealed by  
No. 82/2012  
s. 126(1).

\* \* \* \* \*

S. 68(1)(e)  
substituted by  
No. 3/2009  
s. 13,  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.19(a)).

(e) a member of Victoria Police personnel.

S. 68(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.19(b)).

(2) A person to whom this section applies who, either directly or indirectly, except for the purposes of this Act or otherwise in connection with the performance of his or her functions under this Act or, in the case of a police officer, for the purposes of investigating or prosecuting an offence, and either while he or she is or after he or she ceases to be a person to whom this section applies—

- (a) makes a record of any information; or
- (b) divulges or communicates to any person any information—

being information acquired by him or her by reason of, or in the course of, the performance of his or her functions under this Act, is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum).

S. 68(3)  
amended by  
Nos 82/2012  
s. 126(2),  
37/2014  
s. 10(Sch.  
item  
103.19(c)(i)).

(3) A person to whom this section applies cannot be required to produce in any court any document that has come into his or her custody or control in the course of, or by reason of, the performance of his or her functions under this Act, or to divulge or communicate to a court a matter or thing that has come to his or her notice in the performance of those functions, except where the Chief Examiner, an Examiner or the police officer in his

or her official capacity, is a party to the relevant proceeding or it is necessary to do so—

- (a) for the purpose of carrying into effect the provisions of this Act; or
- (b) for the purposes of a prosecution instituted as a result of an investigation carried out by Victoria Police into an organised crime offence.

S. 68(3)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
103.19(c)(ii).

(4) In this section—

*court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

*produce* includes permit access to, and *production* has a corresponding meaning.

## 69 Exemption from Freedom of Information Act 1982

S. 69  
amended by  
No. 82/2012  
s. 127.

The **Freedom of Information Act 1982** does not apply to a document that is in the possession of the Victorian Inspectorate or any employee of the Victorian Inspectorate to the extent to which the document discloses information that relates to an examination under this Act.

## 70 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
  - (a) may be of general or limited application; and
  - (b) may differ according to differences in time, place or circumstance.

New s. 71  
inserted by  
No. 82/2012  
s. 128.

## 71 Transitional provision—Complaints to the SIM

- (1) A person referred to in section 54(1) who, immediately before the commencement of section 147 of the **Integrity and Accountability Legislation Amendment Act 2012** could have made a complaint to the SIM under section 54(1) may instead make a complaint to the Victorian Inspectorate.
- (2) A complaint referred to in subsection (1)—
  - (a) must be limited to a complaint about a matter set out in section 54(1); and
  - (b) must be made within 3 days after the day on which the person was excused from attendance.
- (3) If, before the commencement of section 147 of the **Integrity and Accountability Legislation Amendment Act 2012**, the SIM—
  - (a) had received a complaint made under section 54 but not commenced an investigation into the complaint; or
  - (b) had commenced but not completed an investigation into a complaint made to the SIM under section 54—

the Victorian Inspectorate, on and from that commencement—

    - (c) must investigate or complete the investigation of that complaint under section 56 as in force immediately before its repeal; and
    - (d) for that purpose, sections 55 to 60 continue to apply as if—
      - (i) those sections had not been repealed, amended or substituted; and

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- (ii) any reference in those sections to the SIM were a reference to the Victorian Inspectorate.
- (4) In an investigation referred to in subsection (1), the Victorian Inspectorate is entitled to have regard to any evidence given or document or other thing produced in relation to that investigation before the commencement of section 147 of the **Integrity and Accountability Legislation Amendment Act 2012**.
- (5) In this section, *SIM* means the Special Investigations Monitor appointed under Part 2 of the **Major Crime (Special Investigations Monitor) Act 2004** as in force immediately before its repeal.

**72 Transitional provision—First annual report**

New s. 72  
inserted by  
No. 82/2012  
s. 128.

- (1) For the purposes of the first annual report of the Victorian Inspectorate under section 61, a reference in that section to the performance of the Victorian Inspectorate's functions under this Act includes a reference to the performance of the SIM's functions under this Act during the financial year to which that report relates.
- (2) In this section, *SIM* means the Special Investigations Monitor appointed under Part 2 of the **Major Crime (Special Investigations Monitor) Act 2004** as in force immediately before its repeal.
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Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004

s. 72

|  |   |   |   |   |   |
|--|---|---|---|---|---|
| <p><b>Pt 7 (Heading and ss 71–73)</b><br/>repealed by<br/>No. 28/2007<br/>s. 3(Sch.<br/>item 39).</p>  | * | * | * | * | * |
| <p><b>Pt 8 (Heading and ss 74–99)</b><br/>amended by<br/>No. 97/2004<br/>ss 7(3)(4),<br/>8(1)–(3),<br/>9(5)(6),<br/>repealed by<br/>No. 28/2007<br/>s. 3(Sch.<br/>item 39).</p>      | * | * | * | * | * |
| <p><b>Pt 9 (Heading and ss 100–103)</b><br/>amended by<br/>No. 97/2004<br/>s. 9(7),<br/>repealed by<br/>No. 28/2007<br/>s. 3(Sch.<br/>item 39).</p>                                  | * | * | * | * | * |
| <p><b>Pt 10 (Heading and ss 104–129)</b><br/>amended by<br/>No. 97/2004<br/>ss 7(5)(6),<br/>8(4)–(6),<br/>9(8)–(12),<br/>repealed by<br/>No. 28/2007<br/>s. 3(Sch.<br/>item 39).</p> | * | * | * | * | * |
| <p><b>Pt 11 (Heading and ss 130, 131)</b><br/>repealed by<br/>No. 28/2007<br/>s. 3(Sch.<br/>item 39).</p>  | * | * | * | * | * |

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## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 5 October 2004*

*Legislative Council: 10 November 2004*

The long title for the Bill for this Act was "to provide for coercive powers in relation to the investigation of organised crime and to amend certain Acts to make further provision for the Director, Police Integrity and for other purposes."

#### **Constitution Act 1975:**

*Section 85(5) statement:*

*Legislative Assembly: 5 October 2004*

*Legislative Council: 10 November 2004*

*Absolute majorities:*

*Legislative Assembly: 4 November 2004*

*Legislative Council: 11 November 2004*

The **Major Crime (Investigative Powers) Act 2004** was assented to on 16 November 2004 and came into operation as follows:

Section 130 on 12 October 2004: section 2(3); sections 75 and 97 on 16 November 2004: section 2(2); Parts 1 (sections 1–3), 7 (sections 71–73), 8 (sections 74, 76–96, 98, 99), 9 (sections 100–103), 10 (sections 104, 106–129) and 11 (section 131) on 16 November 2004: Special Gazette (No. 237) 16 November 2004 page 2; Parts 2–6 (sections 4–70) and section 105 on 1 July 2005: section 2(4).

Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Major Crime (Investigative Powers) Act 2004** by Acts and subordinate instruments.

**Corrections and Major Crime (Investigative Powers) Acts (Amendment) Act 2004, No. 97/2004**

*Assent Date:* 14.12.04  
*Commencement Date:* Ss 6–9 on 16.11.04: s. 2(3)  
*Current State:* This information relates only to provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 120) on 5.4.05: Government Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Legal Profession (Consequential Amendments) Act 2005, No. 18/2005**

*Assent Date:* 24.5.05  
*Commencement Date:* S. 18(Sch. 1 item 64) on 12.12.05: Government Gazette 1.12.05 p. 2781  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Investigative, Enforcement and Police Powers Acts (Amendment) Act 2005, No. 87/2005**

*Assent Date:* 29.11.05  
*Commencement Date:* S. 12 on 30.11.05: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Statute Law (Further Revision) Act 2006, No. 29/2006**

*Assent Date:* 6.6.06  
*Commencement Date:* S. 3(Sch. 1 item 20) on 7.6.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Children, Youth and Families (Consequential and Other Amendments) Act 2006, No. 48/2006**

*Assent Date:* 15.8.06  
*Commencement Date:* S. 42(Sch. item 24) on 23.4.07: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004

Endnotes

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**Statute Law Revision Act 2007, No. 28/2007**

*Assent Date:* 26.6.07  
*Commencement Date:* S. 3(Sch. item 39) on 27.6.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Motor Car Traders Amendment Act 2008, No. 4/2008**

*Assent Date:* 4.3.08  
*Commencement Date:* S. 32(Sch. item 19) on 1.12.08: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Major Crime (Investigative Powers) and Other Acts Amendment Act 2008, No. 60/2008**

*Assent Date:* 22.10.08  
*Commencement Date:* S. 3 on 23.10.08: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Major Crime Legislation Amendment Act 2009, No. 3/2009** (as amended by Nos 55/2009, 87/2009)

*Assent Date:* 10.2.09  
*Commencement Date:* S. 8 on 27.2.09: Government Gazette 26.2.09 p. 444; ss 3–7, 9–13 on 1.2.10: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 54(Sch. Pt 1 item 35) on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Justice Legislation Miscellaneous Amendments Act 2009, No. 87/2009**

*Assent Date:* 15.12.09  
*Commencement Date:* Ss 7, 9 on 16.12.09: s. 2(1); ss 8, 10 on 1.2.10: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Justice Legislation Further Amendment Act 2011, No. 67/2011**

*Assent Date:* 29.11.11  
*Commencement Date:* Ss 4, 5 on 30.11.11: s. 2  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**



Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004

Endnotes

**Public Interest Monitor Act 2011, No. 72/2011**

*Assent Date:* 6.12.11  
*Commencement Date:* Ss 22–29 on 10.2.13: Special Gazette (No. 32) 6.2.13 p. 2  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012, No. 13/2012**

*Assent Date:* 20.3.12  
*Commencement Date:* S. 12 on 10.2.13: Special Gazette (No. 32) 6.2.13 p. 1  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Evidence Amendment (Journalist Privilege) Act 2012, No. 52/2012**

*Assent Date:* 18.9.12  
*Commencement Date:* S. 20 on 1.1.13: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012**

*Assent Date:* 18.12.12  
*Commencement Date:* Ss 106–128 on 10.2.13: Special Gazette (No. 32) 6.2.13 p. 2; s. 311 on 11.2.13: s. 2(5)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Statute Law Revision Act 2013, No. 70/2013**

*Assent Date:* 19.11.13  
*Commencement Date:* S. 3(Sch. 1 item 28) on 1.12.13: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014**

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 103) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s amending the **Major Crime (Investigative Powers) Act 2004**

Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004

Endnotes

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**Criminal Organisations Control and Other Acts Amendment Act 2014,  
No. 55/2014**

*Assent Date:* 26.8.14  
*Commencement Date:* Ss 156–167 on 27.8.14: s. 2(1); ss 105–107 on  
1.10.14: Special Gazette (No. 330) 23.9.14 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Major Crime (Investigative Powers)  
Act 2004**

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Major Crime (Investigative Powers) Act 2004  
No. 79 of 2004

**Endnotes**

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**3. Explanatory Details**

No entries at date of publication.