

LEGISLATIVE ASSEMBLY

JUSTICE LEGISLATION AMENDMENT (CONFISCATION AND OTHER  
MATTERS) BILL 2014

(Amendments and New Clauses to be moved by Mr Clark)

1. Clause 2, lines 23 and 24, omit "3 and 4" and insert "3, 4 and 5".
2. Page 86, after line 34 insert the following heading—  
**"Division 4—Amendment of Crimes Act 1958"**.
3. Division heading preceding clause 69, omit "**Division 4**" and insert "**Division 5**".

NEW CLAUSES

4. Insert the following New Clauses to follow clause 68 and the heading proposed by amendment number 2—

**'AA New section 465AA inserted**

After section 465 of the **Crimes Act 1958** insert—

**"465AA Power to require assistance from person with knowledge of a computer or computer network**

- (1) This section applies if a magistrate has issued a warrant under section 465 in relation to a building, receptacle, place or vehicle (*warrant premises*).
- (2) The Magistrates' Court may, on the application of a police officer of or above the rank of senior sergeant, make an order requiring a specified person to provide any information or assistance that is reasonable and necessary to allow a police officer to do one or more of the things specified in subsection (3).
- (3) The things are—
  - (a) access data held in, or accessible from, a computer or data storage device that—
    - (i) is on warrant premises; or
    - (ii) has been seized under the warrant and is at a place other than warrant premises;
  - (b) copy to another data storage device data held in, or accessible from, a computer, or data storage device, described in paragraph (a);
  - (c) convert into documentary form or another form intelligible to a police officer—
    - (i) data held in, or accessible from, a computer, or data storage device, described in paragraph (a); or

- (ii) data held in a data storage device to which the data was copied as described in paragraph (b).
- (4) An application may be made under subsection (2) at the same time as an application is made for the warrant under section 465 or at any time after the issue of the warrant.
- (5) The Magistrates' Court may make the order if satisfied that—
  - (a) there are reasonable grounds for suspecting that data held in, or accessible from, a computer, or data storage device, described in subsection (3)(a) will afford evidence as to the commission of an indictable offence; and
  - (b) the specified person is—
    - (i) reasonably suspected of having committed an indictable offence in relation to which the warrant was issued; or
    - (ii) the owner or lessee of the computer or device; or
    - (iii) an employee of the owner or lessee of the computer or device; or
    - (iv) a person engaged under a contract for services by the owner or lessee of the computer or device; or
    - (v) a person who uses or has used the computer or device; or
    - (vi) a person who is or was a system administrator for the computer network of which the computer or device forms or formed a part; and
  - (c) the specified person has relevant knowledge of—
    - (i) the computer or device or a computer network of which the computer or device forms or formed a part; or
    - (ii) measures applied to protect data held in, or accessible from, the computer or device.
- (6) A person is not excused from complying with an order on the ground that complying with it may result in information being provided that might incriminate the person.
- (7) If—
  - (a) the computer or data storage device that is the subject of the order is seized under the warrant; and
  - (b) the order was granted on the basis of an application made before the seizure—the order does not have effect on or after the completion of the execution of the warrant.

**Note**

An application for another order under this section relating to the computer or data storage device may be made after the completion of the execution of the warrant.

- (8) If the computer or data storage device is not on warrant premises, the order must—
  - (a) specify the period within which the person must provide the information or assistance; and
  - (b) specify the place at which the person must provide the information or assistance; and
  - (c) specify the conditions (if any) to which the requirement to provide the information or assistance is subject.
- (9) A person commits an offence if—
  - (a) the person has relevant knowledge of—
    - (i) the computer or data storage device or a computer network of which the computer or data storage device forms or formed a part; or
    - (ii) measures applied to protect data held in, or accessible from, the computer or data storage device; and
  - (b) the person is informed by a police officer—
    - (i) of the order made under this section and of its terms; and
    - (ii) that it is an indictable offence punishable by imprisonment to fail to comply with the order; and
  - (c) the person fails to comply with the order without reasonable excuse.
- (10) A person who commits an offence against subsection (9) is liable to level 6 imprisonment (5 years maximum).
- (11) In this section *access*, *data*, *data held in a computer* and *data storage device* have the meanings given by section 247A(1)."

**BB New section 621A inserted**

After section 621 of the **Crimes Act 1958** insert—

**"621A Transitional provision—Justice Legislation Amendment (Confiscation and Other Matters) Bill 2014**

Section 465AA applies with respect to a warrant issued under section 465 irrespective of whether the warrant was issued before, on or after the commencement of section 69 of the **Justice Legislation Amendment (Confiscation and Other Matters) Act 2014**."