

Crimes Act 1914

Act No. 12 of 1914 as amended

This compilation was prepared on 16 August 2010
taking into account amendments up to Act No. 103 of 2010

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Part ID—Forensic procedures

Division 4—Non-intimate forensic procedures on suspect by order of senior constable

23WM Non-intimate forensic procedure may be carried out by order of senior constable

- (1) A person is authorised to carry out a non-intimate forensic procedure on a suspect by order of a senior constable under section 23WN. The person is authorised to carry out the procedure in accordance with Division 6 and not otherwise.
- (2) This Division does not authorise the carrying out of a forensic procedure on a suspect who is:
 - (a) a child; or
 - (b) an incapable person.
- (3) This Division does not authorise keeping a suspect in custody, in order to carry out a forensic procedure, after the expiration of the investigation period provided for by Part IC.

Note: If it is necessary to keep a suspect in custody after the expiration of the Part IC investigation period in order to carry out a forensic procedure, an order of a magistrate under Division 5 will have to be obtained to authorise this.

- (4) Nothing in this Part or Part IC prevents the carrying out of a forensic procedure, in accordance with a constable's order under section 23WN, during the investigation period provided for by Part IC. However, neither carrying out the forensic procedure, nor any delays associated with carrying out the forensic procedure, operate to extend the investigation period provided for by Part IC.

Note: By contrast, the carrying out of a forensic procedure in accordance with a magistrate's order under Division 5, and associated delays, may delay the expiration of the investigation period provided for by Part IC.

23WN Circumstances in which senior constable may order non-intimate forensic procedures

A senior constable may order the carrying out of a non-intimate forensic procedure on a suspect who is in custody if:

- (a) the suspect has been asked under Division 3 to consent to the carrying out of the forensic procedure; and
- (b) the suspect has not consented; and
- (c) the senior constable is satisfied as required by section 23WO.

23WO Matters to be considered by senior constable before ordering forensic procedure

- (1) The senior constable must be satisfied on the balance of probabilities that:
 - (a) the suspect is in the lawful custody of a constable; and
 - (b) there are reasonable grounds to believe that the suspect committed a relevant offence; and
 - (c) there are reasonable grounds to believe that the forensic procedure is likely to produce evidence tending to confirm or disprove that the suspect committed a relevant offence; and
 - (d) the carrying out of the forensic procedure without consent is justified in all the circumstances.
- (2) In determining whether the carrying out of the forensic procedure without consent is justified in all the circumstances, the senior constable must balance the public interest in obtaining evidence tending to confirm or disprove that the suspect committed the offence concerned against the public interest in upholding the physical integrity of the suspect.
- (3) In balancing those interests, the senior constable must have regard to the following matters:
 - (a) the seriousness of the circumstances surrounding the commission of the relevant offence and the gravity of the relevant offence;
 - (b) the degree of the suspect's alleged participation in the commission of the relevant offence;

- (c) the age, physical health and mental health of the suspect, to the extent that they are known to the senior constable or can reasonably be discovered by the senior constable (by asking the suspect or otherwise);
 - (e) whether there is a less intrusive but reasonably practicable way of obtaining evidence tending to confirm or disprove that the suspect committed the relevant offence;
 - (f) if the suspect gives any reasons for refusing to consent—the reasons;
 - (g) any other matter considered relevant to balancing those interests.
- (4) Without limiting the matters that the senior constable may take into account in considering, for the purposes of paragraph (3)(e), the intrusiveness of the forensic procedure, the senior constable must (where appropriate) take into account the religious beliefs of the suspect.

23WP Record of senior constable's order

- (1) The senior constable must, at the time of, or as soon as practicable after, make an order under section 23WN, make a record of:
 - (a) the order made; and
 - (b) the date and time when the order was made; and
 - (c) the reasons for making it;and must sign the record.
- (2) The senior constable must ensure that a copy of the record is made available to the suspect as soon as practicable after the record is made.

Part ID Forensic procedures

Division 5 Forensic procedures on suspect by order of a magistrate

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Division 5—Forensic procedures on suspect by order of a magistrate

Subdivision A—General

23WQ Forensic procedure may be carried out by order of magistrate

A person is authorised to carry out a forensic procedure on a suspect by order of a magistrate under section 23WS or 23XA. The person is authorised to carry out the procedure in accordance with Division 6 and not otherwise.

23WR Circumstances in which magistrate may order forensic procedure

A magistrate may, under section 23WS or 23XA, order the carrying out of a forensic procedure on a suspect if:

- (a) the suspect is not in custody and has not consented to the forensic procedure; or
- (b) the suspect is in custody and has not consented to the forensic procedure; or
- (c) under section 23WE, the suspect cannot consent to the forensic procedure.

Subdivision B—Final orders

23WS Final order for carrying out of forensic procedure

A magistrate may order the carrying out of a forensic procedure on a suspect if:

- (a) section 23WR applies; and
- (b) the magistrate is satisfied as required by section 23WT.

23WT Matters to be considered by magistrate before ordering forensic procedure

- (1) The magistrate must be satisfied on the balance of probabilities that:
 - (a) the person on whom the procedure is proposed to be carried out is a suspect; and
 - (b) on the evidence before him or her, there are reasonable grounds to believe that the suspect committed a relevant offence; and
 - (c) there are reasonable grounds to believe that the forensic procedure is likely to produce evidence tending to confirm or disprove that the suspect committed a relevant offence; and
 - (d) the carrying out of the forensic procedure is justified in all the circumstances.
- (2) In determining whether the carrying out of the forensic procedure is justified in all the circumstances, the magistrate must balance the public interest in obtaining evidence tending to confirm or disprove that the suspect committed the offence concerned against the public interest in upholding the physical integrity of the suspect.
- (3) In balancing those interests, the magistrate must have regard to the following matters:
 - (a) the seriousness of the circumstances surrounding the commission of the relevant offence and the gravity of the relevant offence;
 - (b) the degree of the suspect's alleged participation in the commission of the relevant offence;
 - (c) the age, physical health and mental health of the suspect, to the extent that they are known to the magistrate or can reasonably be discovered by the magistrate (by asking the suspect or otherwise);
 - (e) if the suspect is a child or an incapable person—the welfare of the suspect;
 - (f) whether there is a less intrusive but reasonably practicable way of obtaining evidence tending to confirm or disprove that the suspect committed the relevant offence;
 - (g) if the suspect gives any reasons for refusing to consent—the reasons;

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- (h) if the suspect is in custody:
 - (i) the period for which the suspect has already been detained; and
 - (ii) the reasons for any delay in proposing the carrying out of the forensic procedure;
 - (i) any other matter considered relevant to balancing those interests.
- (4) Without limiting the matters that the magistrate may take into account in considering, for the purposes of paragraph (3)(f), the intrusiveness of the forensic procedure, the magistrate must (where appropriate) take into account the religious beliefs of the suspect.

23WU Application for order

- (1) An authorised applicant (but no other person) may apply to a magistrate for an order under section 23WS authorising him or her to arrange the carrying out of a forensic procedure on a suspect.
- (2) An application for an order must:
 - (a) be made in writing; and
 - (b) be supported by evidence on oath or by affidavit dealing with the matters referred to in paragraphs 23WT(1)(a), (b), (c) and (d); and
 - (c) specify the type of forensic procedure sought to be carried out; and
 - (d) be made in the presence of the suspect (subject to any contrary order made by the magistrate).

23WV Securing the presence of suspect at hearing—suspect in custody

- (1) If the suspect is in the custody of another constable or is otherwise detained under a law of the Commonwealth, a State or a Territory (*original custody*), the magistrate may, on the application of a constable, issue a warrant directing the person holding the suspect in original custody to deliver the suspect into the custody of the constable (*temporary custody*) for the hearing of an application for an order under this Division.

- (2) The constable given temporary custody must return the suspect to the place of original custody:
 - (a) if the application for the order is refused—without delay; or
 - (b) if the order is made—without delay at the end of the period for which the suspect may be detained in custody under section 23XGD.

23WW Securing the presence of suspect at hearing—suspect not in custody

- (1) If the suspect is not in custody, the magistrate may, on the application of a constable:
 - (a) issue a summons for the appearance of the suspect at the hearing of the application; or
 - (b) issue a warrant for the arrest of the suspect for the purpose of bringing the suspect before the magistrate for the hearing of the application.
- (2) An application for a summons under subsection (1) must be:
 - (a) made by information on oath; and
 - (b) accompanied by an affidavit dealing with matters referred to in paragraphs (3)(a) and (b).
- (3) The magistrate may issue a summons only if satisfied:
 - (a) that the issue of the summons is necessary to ensure the appearance of the suspect at the hearing of the application; or
 - (b) that the issue of the summons is otherwise justified.
- (4) An application for a warrant under subsection (1) must be:
 - (a) made by information on oath; and
 - (b) accompanied by an affidavit dealing with matters referred to in paragraphs (5)(a), (b) and (c).
- (5) The magistrate may issue a warrant only if satisfied:
 - (a) that the arrest is necessary to ensure the appearance of the suspect at the hearing of the application, and that the issue of a summons would not ensure that appearance; or
 - (b) that the suspect might destroy evidence that might be obtained by carrying out the forensic procedure; or
 - (c) that the issue of the warrant is otherwise justified.

23WX Procedure at hearing of application for order

- (1) An order may only be made in the presence of the suspect concerned, subject to any contrary order made by the magistrate.
- (2) A suspect who is:
 - (a) a child; or
 - (b) an incapable person;must be represented by an interview friend and may also be represented by a legal practitioner.
- (3) If the applicant believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander not covered by subsection (2), the suspect must be represented by an interview friend and may also be represented by a legal practitioner.
- (4) Subsection (3) does not apply if the applicant believes on reasonable grounds that, having regard to the suspect's level of education and understanding, the suspect is not at a disadvantage in relation to the hearing by comparison with members of the Australian community generally.
- (5) Any other suspect (including a suspect covered by subsection (4)) may be represented by a legal practitioner.
- (6) The suspect or his or her representative:
 - (a) may call or cross-examine the applicant for the order; and
 - (b) may, with the leave of the magistrate, call or cross-examine any other witnesses; and
 - (c) may address the magistrate.
- (6A) A magistrate must not give leave under paragraph (6)(b) unless the magistrate is of the opinion that there are substantial reasons why, in the interests of justice, the witness should be called or cross-examined.
- (7) In spite of subsection (2) or (3), the suspect's interview friend may be excluded from the hearing if the interview friend unreasonably interferes with or obstructs the hearing of the application.

23WY Making of order

- (1) If a magistrate makes an order for the carrying out of a forensic procedure, the magistrate must:
 - (a) give reasons for making the order; and
 - (b) ensure that a written record of the order is kept; and
 - (c) order the suspect to attend for the carrying out of the forensic procedure; and
 - (d) inform the suspect that reasonable force may be used to ensure that he or she complies with the order for the carrying out of the forensic procedure.
- (2) The magistrate may give directions as to the time, place and manner in which the procedure is to be carried out.

Subdivision C—Interim orders

23XA Interim order for carrying out of a forensic procedure

- (1) A magistrate may make an interim order authorising the carrying out of a forensic procedure on a suspect that must be carried out without delay if:
 - (a) section 23WR applies; and
 - (b) the magistrate is satisfied that the probative value of evidence obtained as a result of the forensic procedure concerned is likely to be lost or destroyed if there is delay in carrying out the procedure; and
 - (c) the magistrate is satisfied that there is sufficient evidence to indicate that a magistrate is reasonably likely to be satisfied of the existence of the matters referred to in subsection 23WT(1) when the application is finally determined.
- (2) An interim order operates as provided by this Subdivision until a magistrate, at a hearing held under Subdivision B, confirms the interim order or disallows the interim order.

Note: Subsection 23XD(2) requires that an interim order specify the intended date, time and place of the later hearing.
- (3) Subdivision B applies in relation to an order confirming the interim order in the same way it applies in relation to an order under section 23WS, and an order confirming the interim order is taken to be an order under section 23WS.

23XB Application for interim order

- (1) An authorised applicant may, without bringing a suspect before a magistrate and without obtaining an order under section 23WS, make an application seeking an interim order authorising the carrying out of a forensic procedure on a suspect that must be carried out without delay.
- (2) An application for an interim order must:
 - (a) be supported by evidence on oath or by affidavit dealing with the matters referred to in paragraphs 23XA(1)(a), (b) and (c); and
 - (b) specify the type of forensic procedure sought to be carried out.
- (3) An application for an interim order may be made in person or, if that is not practicable, by telephone, radio, telex, facsimile or other means of transmission.
- (4) The suspect must be in the presence of the authorised applicant when the application is made.
- (5) If the suspect is:
 - (a) a child; or
 - (b) an incapable person;an interview friend or legal representative of the suspect must also be in the presence of the authorised applicant.
- (6) If the applicant believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander not covered by subsection (5), an interview friend or legal representative of the suspect must also be in the presence of the authorised applicant.
- (7) Subsection (6) does not apply if the applicant believes on reasonable grounds that, having regard to the suspect's level of education and understanding, the suspect is not at a disadvantage in relation to the application by comparison with members of the Australian community generally.
- (8) If the suspect is not covered by subsection (5) or (6), the suspect's legal representative (if any) must also be in the presence of the authorised applicant.

- (9) In spite of subsection (5) or (6), the suspect's interview friend may be excluded from the presence of the authorised applicant if the interview friend unreasonably interferes with or obstructs the making of the application.

23XC Procedure at hearing of application for interim order

- (1) If the application is made in person, or by telephone or radio or other form of oral communication, the magistrate must ensure that:
- (a) the suspect; and
 - (b) the suspect's legal representative, if any; and
 - (c) the suspect's interview friend, if any;
- are given an opportunity to speak to the magistrate.
- (2) If the application is made by telex, facsimile or other form of written communication, the magistrate must ensure that:
- (a) the suspect; and
 - (b) the suspect's legal representative, if any; and
 - (c) the suspect's interview friend, if any;
- are given an opportunity to make a written submission to accompany the application, or to speak to the magistrate by telephone, radio or other form of oral communication.

23XD Making of interim order

- (1) A magistrate who makes an interim order must inform the applicant for the order personally, or by telephone, radio, telex, facsimile or other means of transmission:
- (a) that the order has been made; and
 - (b) of the terms of the order, including the matters mentioned in subsection (2); and
 - (c) of any orders made or directions given under subsection (3) in relation to the order.
- (2) An interim order must specify the date, time and place at which a further hearing on the application will take place and the application will be finally determined.
- (3) A magistrate may make such orders and give such directions in relation to an interim order as the magistrate may make or give in relation to an order under section 23WS.

23XE Records of application and interim order

- (1) The applicant for an interim order must, at the time of, or as soon as practicable after, applying for the interim order, make a record (the *applicant's record*) of:
 - (a) the application; and
 - (b) the grounds for seeking the order; and
 - (c) the order made; and
 - (d) the date and time when the order was made; and
 - (e) the magistrate's name;and sign the record.
- (2) The applicant must send a copy of the applicant's record to the magistrate as soon as practicable after it is made.
- (3) The magistrate must, at the time of, or as soon as practicable after, making an interim order, make a record (the *magistrate's record*) of:
 - (a) the application; and
 - (b) the grounds for seeking the order; and
 - (c) the order made; and
 - (d) the date and time when the order was made; and
 - (e) the reasons for making it;and sign the record.
- (4) The magistrate must send a copy of the magistrate's record to the applicant as soon as practicable after the record is made.
- (5) The applicant must ensure that a copy of the magistrate's record and a copy of the applicant's record are made available to the suspect as soon as practicable after the applicant receives the magistrate's record.
- (6) If the applicant's record does not, in all material respects, accord with the magistrate's record, the order is taken to have had no effect.

23XF Suspect may be prevented from destroying or contaminating evidence

- (1) A constable may, while waiting for the application seeking an interim order to be determined, use reasonable force to prevent the
-

suspect destroying or contaminating any evidence that might be obtained by carrying out the forensic procedure if the order is made.

- (2) Nothing in this section authorises any person to carry out a forensic procedure before an interim order is made.

23XG Results of forensic procedure carried out under interim order

- (1) A sample taken under an interim order must not be analysed unless:
- (a) the sample is likely to perish before a final order is made; or
 - (b) a final order is made.
- (2) A person who conducts an analysis in the circumstances set out in paragraph (1)(a) must not intentionally disclose the results of the analysis to any person:
- (a) during the period before a final order is made; or
 - (b) if the interim order is disallowed.

Penalty for a contravention of subsection (2): Imprisonment
for 12 months.

Subdivision D—Time limits for forensic procedures ordered by magistrates

23XGA Application

This Subdivision applies where a magistrate orders the carrying out of a forensic procedure on a suspect under this Part.

23XGB Time for carrying out forensic procedure—suspect not in custody

- (1) If a suspect who is not in custody presents himself or herself to the investigating constable to undergo the procedure ordered by the magistrate, the procedure must be carried out as quickly as reasonably possible but in any case within the following period:
- (a) if the suspect is a child or an incapable person, or the investigating constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait

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- Islander—2 hours after the suspect so presents himself or herself;
- (b) in any other case—4 hours after the suspect so presents himself or herself.
- (2) In working out any period of time for the purposes of subsection (1), the following times are to be disregarded:
- (a) the time (if any) that is reasonably required to convey the suspect from the place where the suspect presents himself or herself to the investigating constable to the nearest premises where facilities for carrying out the procedure in accordance with this Part are available to the investigating constable;
 - (b) any time during which carrying out the procedure is suspended or delayed to allow the suspect, or someone else on the suspect's behalf, to communicate with a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person as provided by this Part;
 - (c) any time during which carrying out the procedure is suspended or delayed to allow such a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person to arrive at the place where the procedure is to be carried out;
 - (d) any time during which carrying out the procedure is suspended or delayed to allow the suspect to receive medical attention;
 - (e) any time during which carrying out the procedure is suspended or delayed because of the suspect's intoxication;
 - (f) any reasonable time during which carrying out the procedure is suspended or delayed to allow the suspect to rest or recuperate;
 - (g) any time during which carrying out the procedure is suspended or delayed at the request of the suspect.

23XGC Arrest of suspect not in custody

- (1) If the suspect is not in custody, the magistrate may, on the application of a constable, issue a warrant for the arrest of the suspect for the purpose of carrying out the forensic procedure.

- (2) An application for a warrant must be:
 - (a) made by information on oath; and
 - (b) accompanied by an affidavit dealing with matters referred to in paragraphs (3)(a) and (b).
- (3) The magistrate may issue a warrant only if satisfied:
 - (a) that the arrest is necessary to ensure that the forensic procedure can be carried out; or
 - (b) that the issue of the warrant is otherwise justified.
- (4) A magistrate must not issue a warrant for the arrest of a suspect for the purpose of carrying out a forensic procedure if a warrant has previously been issued (by any magistrate) for the arrest of the suspect for the purpose of carrying out that forensic procedure.

23XGD Time for carrying out forensic procedure—suspect in custody

- (1) If the suspect is in custody (whether or not as the result of the issue of a warrant under section 23XGC), he or she may be detained in custody for such period (the *detention period*) as is reasonably necessary to carry out the forensic procedure but in any case for no longer than a period starting when:
 - (a) the magistrate orders the carrying out of the procedure; or
 - (b) the suspect is arrested pursuant to a warrant under section 23XGC;whichever is later, and ending:
 - (c) if the suspect is a child or an incapable person, or the investigating constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander—2 hours later; or
 - (d) in any other case—4 hours later.
- (2) In working out any period of time for the purposes of subsection (1), the following times are to be disregarded:
 - (a) the time (if any) that is reasonably required to convey the suspect from the place where the suspect is when the detention period starts to the nearest premises where facilities for carrying out the procedure in accordance with this Part are available to the investigating constable;

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- (b) any time during which carrying out the procedure is suspended or delayed to allow the suspect, or someone else on the suspect's behalf, to communicate with a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person as provided by this Part;
- (c) any time during which carrying out the procedure is suspended or delayed to allow such a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person to arrive at the place where the procedure is to be carried out;
- (d) any time during which carrying out the procedure is suspended or delayed to allow the suspect to receive medical attention;
- (e) any time during which carrying out the procedure is suspended or delayed because of the suspect's intoxication;
- (f) any reasonable time during which carrying out the procedure is suspended or delayed to allow the suspect to rest or recuperate;
- (g) any time during which the suspect is being questioned under Part IC;
- (h) any time that is to be disregarded under subsection 23C(7) or 23CA(8).

Subdivision E—Reports of proceedings under Division

23XH Restrictions on publication

A person must not intentionally, in any report of a proceeding under this Division, publish:

- (a) the name of the suspect; or
- (b) any information likely to enable the identification of the suspect;

unless the suspect has been charged with a relevant offence or the magistrate, by order, has authorised such publication.

Penalty: Imprisonment for 12 months.

Division 6—Carrying out forensic procedures on suspects

Subdivision A—General provisions

23XI General rules for carrying out forensic procedures

A forensic procedure:

- (a) must be carried out in circumstances affording reasonable privacy to the suspect; and
- (b) except as permitted (expressly or impliedly) by other provisions of this Part, must not be carried out in the presence or view of a person who is of the opposite sex to the suspect; and
- (c) must not be carried out in the presence or view of a person whose presence is not necessary for the purposes of the forensic procedure or required or permitted by another provision of this Part; and
- (d) must not involve the removal of more clothing than is necessary for the carrying out of the procedure; and
- (e) must not involve more visual inspection than is necessary for the carrying out of the procedure.

23XIA No questioning during forensic procedure

A forensic procedure must not be carried out while the suspect is being questioned as defined in subsection 23B(6). If questioning has not been completed before the forensic procedure is to be carried out, it must be suspended while the forensic procedure is carried out.

23XIB Suspect must be cautioned before forensic procedure starts

Before anyone starts to carry out a forensic procedure on a suspect, a constable must caution the suspect that he or she does not have to say anything while the procedure is carried out but that anything the person does say may be used in evidence.

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23XJ Use of force in carrying out forensic procedures

- (1) Subject to subsection (2) and section 23XK, a person authorised to carry out a forensic procedure on a person, or a constable, may use reasonable force:
 - (a) to enable a forensic procedure to be carried out; or
 - (b) to prevent loss, destruction or contamination of any sample.
- (2) All forensic procedures are to be carried out in a manner consistent with appropriate medical or other relevant professional standards.

23XK Forensic procedures not to be carried out in cruel, inhuman or degrading manner

For the purpose of this Part, the carrying out of a forensic procedure is not of itself taken to be cruel, inhuman or degrading. However, nothing in this Part authorises the carrying out of a forensic procedure in a cruel, inhuman or degrading manner.

23XL Taking of hair samples

A person is authorised to take a sample of hair of a suspect by removing the root of the hair only if:

- (a) the person takes only so much hair as the person believes is necessary for analysis of the sample, or other examination of the hair, to be carried out for the purpose of investigating the offence; and
- (b) each strand of hair is taken individually using the least painful technique known and available to the person.

Subdivision B—Persons involved in forensic procedures

23XM Persons who may carry out forensic procedures

- (1) The table following subsection (4) shows, for each forensic procedure, the persons who may carry out the procedure under this Part. A person not specified in the second column of the table is not authorised to carry out a forensic procedure under this Part except as mentioned in section 23XO.
- (2) The third column of the table following subsection (4) shows, for each forensic procedure, whether the suspect is entitled to request

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that a medical practitioner or dentist of the suspect's choice is present while the forensic procedure is carried out.

Note: Section 23XP makes detailed provision for the presence of a medical practitioner or dentist of the suspect's choice while a forensic procedure is carried out.

- (3) A person is authorised to carry out a particular forensic procedure if he or she is an appropriately qualified person in relation to the procedure even if the person also satisfies another description specified in the following table that is not specified in relation to the particular forensic procedure.

Example: A constable who is an appropriately qualified person to take samples of blood may take such samples even though the table does not expressly list constables as persons who may take samples of blood.

- (4) This section does not prevent a suspect from taking a sample of saliva, or a sample by buccal swab, from himself or herself under the supervision of an appropriately qualified person.

Who may carry out forensic procedures

| Forensic procedure | Persons who may carry out forensic procedure | Is suspect entitled to request presence of medical practitioner or dentist of suspect's choice? |
|---|---|--|
| 1 external examination of the genital or anal area, the buttocks or, in the case of a female, the breasts | medical practitioner nurse appropriately qualified person | yes (medical practitioner) |
| 2 the taking of a sample of blood | medical practitioner nurse appropriately qualified person | yes (medical practitioner) |
| 3 the taking of a sample of saliva, or a sample by buccal swab | medical practitioner dentist dental technician nurse appropriately qualified person | yes (dentist or medical practitioner) |

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Who may carry out forensic procedures

| | Forensic procedure | Persons who may carry out forensic procedure | Is suspect entitled to request presence of medical practitioner or dentist of suspect's choice? |
|---|---|---|--|
| 4 | the taking of a sample of pubic hair | medical practitioner nurse appropriately qualified person | yes (medical practitioner) |
| 5 | the taking of a sample by swab or washing from the external genital or anal area, the buttocks or, in the case of a female, the breasts | medical practitioner nurse appropriately qualified person | yes (medical practitioner) |
| 6 | the taking of a sample by vacuum suction, scraping or lifting by tape from the external genital or anal area, the buttocks or, in the case of a female, the breasts | medical practitioner nurse appropriately qualified person | yes (medical practitioner) |
| 7 | the taking of a dental impression | medical practitioner dentist dental technician | yes (dentist or medical practitioner) |
| 8 | the taking of a photograph or a video recording of, or an impression or cast of a wound from, the genital or anal area, the buttocks or, in the case of a female, the breasts | appropriately qualified person | yes (medical practitioner) |

Who may carry out forensic procedures

| Forensic procedure | Persons who may carry out forensic procedure | Is suspect entitled to request presence of medical practitioner or dentist of suspect's choice? |
|--|--|--|
| 9 external examination of a part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts, that requires touching of the body or removal of clothing | medical practitioner nurse appropriately qualified person | no |
| 10 the taking of a sample of hair other than pubic hair | medical practitioner nurse constable appropriately qualified person | no |
| 11 the taking of a sample from a nail or from under a nail | medical practitioner nurse constable appropriately qualified person | no |
| 12 the taking of a sample by swab or washing from any external part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts | medical practitioner nurse appropriately qualified person | no |
| 13 the taking of a sample by vacuum suction, scraping or lifting by tape from any external part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts | medical practitioner nurse appropriately qualified person | no |

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Who may carry out forensic procedures

| | Forensic procedure | Persons who may carry out forensic procedure | Is suspect entitled to request presence of medical practitioner or dentist of suspect's choice? |
|----|---|---|--|
| 14 | the taking of a hand print, finger print, foot print or toe print | appropriately qualified person | no |
| 15 | the taking of a photograph or a video recording of, or an impression or cast of a wound from, an external part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts | appropriately qualified person | no |

Note: *Appropriately qualified* (as used in the expression “appropriately qualified person”) is defined in section 23WA.

Subdivision C—Further provisions about who may carry out forensic procedures

23XN Certain forensic procedures generally to be carried out by person of same sex as suspect

- (1) If practicable, an intimate forensic procedure (other than the taking of a sample of blood, a sample of saliva, a buccal swab or a dental impression) is to be carried out:
 - (a) if the suspect is an adult—by a person of the same sex as the suspect; or
 - (b) if the suspect is a child—by a person of the sex chosen by the suspect or, if the suspect does not wish to make such a choice, by a person of the same sex as the suspect.
- (2) If practicable, a non-intimate forensic procedure for which the suspect is required to remove clothing other than his or her

overcoat, coat, jacket, gloves, socks, shoes and hat is to be carried out:

- (a) if the suspect is an adult—by a person of the same sex as the suspect; or
 - (b) if the suspect is a child—by a person of the sex chosen by the suspect or, if the suspect does not wish to make such a choice, by a person of the same sex as the suspect.
- (3) If practicable, a person asked under section 23XO to help carry out a forensic procedure covered by subsection (1) or (2):
- (a) is to be:
 - (i) if the suspect is an adult—a person of the same sex as the suspect; or
 - (ii) if the suspect is a child—a person of the sex chosen by the suspect or, if the suspect does not wish to make such a choice, by a person of the same sex as the suspect; and
 - (b) is to be a person who is not inappropriate to help carry out the forensic procedure.

23XO Person may get help to carry out forensic procedures

- (1) A person who is authorised to carry out a forensic procedure under the table in section 23XM is authorised to ask another person to help him or her to carry out the procedure, and the other person is authorised to give that help.
- (2) A person who is asked to help carry out a forensic procedure need not be a person mentioned in the table in section 23XM.
- (3) A person who is asked to help carry out a forensic procedure may use reasonable force to enable the forensic procedure to be carried out.

Subdivision D—Presence of other people while forensic procedure is carried out

23XP Medical practitioner or dentist of suspect's choice may be present for intimate forensic procedures

- (1) A suspect is entitled to request a medical practitioner or dentist (the *expert*) of his or her choice as shown in the table in section 23XM

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to be present while a forensic procedure (other than a non-intimate forensic procedure) is carried out.

Note: Section 23YE provides that the request may be made by the suspect's legal representative or interview friend.

- (2) The expert chosen is to be present at the forensic procedure unless he or she:
- (a) is unable, or does not wish, to attend; or
 - (b) cannot be contacted;
- within a reasonable time or, if relevant, within the time in which the person responsible for the effective carrying out of the forensic procedure considers the forensic procedure should be carried out if it is to be effective in affording evidence of the relevant offence.

23XQ Presence of interview friend or legal representative—children and incapable persons

- (1) This section applies if the suspect is:
- (a) a child; or
 - (b) an incapable person.
- (2) Either an interview friend or a legal representative (if he or she is not the interview friend) of the suspect must be present while the forensic procedure is carried out. Both an interview friend and a legal representative may be present.
- (3) An interview friend (other than a legal representative) of the suspect may be excluded from the place where the forensic procedure is being carried out if the interview friend unreasonably interferes with or obstructs the carrying out of the procedure.

23XR Presence of interview friend or legal representative—Aboriginal persons and Torres Strait Islanders

- (1) This section applies if the investigating constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander not covered by section 23XQ.
- (2) Either an interview friend or a legal representative (if he or she is not the interview friend) of the suspect must be present while the forensic procedure is carried out. Both an interview friend and a legal representative may be present.

- (3) Subsection (2) does not apply if:
- (a) the investigating constable believes on reasonable grounds that, having regard to the suspect's level of education and understanding, the suspect is not at a disadvantage in respect of the carrying out of the forensic procedure by comparison with members of the Australian community generally; or
 - (b) the suspect expressly and voluntarily waives his or her right to have an interview friend present.

Note: Section 23YK relates to proving a waiver under subsection (3).

- (4) An interview friend (other than a legal representative) of the suspect may be excluded from the place where the forensic procedure is being carried out if the interview friend unreasonably interferes with or obstructs the carrying out of the procedure.

23XS Presence of constables

- (1) The number of constables that may be present during the carrying out of a forensic procedure must not exceed that which is reasonably necessary to ensure that the procedure is carried out effectively and in accordance with this Part.
- (2) Where the presence of a constable (other than a constable who is carrying out or helping to carry out the procedure) is reasonably necessary to ensure that a forensic procedure is carried out effectively and in accordance with this Part, the constable is:
- (a) if the suspect is a child—to be of the same sex as the suspect; or
 - (b) in any other case—to be of the same sex as the suspect unless it is not practicable for such a constable to attend within a reasonable time.

Note: Section 23XN provides that, if practicable, most forensic procedures are to be carried out by persons of the same sex as the suspect.

- (3) This section does not apply to the following forensic procedures:
- (a) the taking of hand prints, finger prints, foot prints or toe prints;
 - (b) any non-intimate forensic procedure that may be carried out without requiring the suspect to remove any clothing except his or her overcoat, coat, jacket, gloves, socks, shoes and hat.

23XSA Presence of prison officers

If:

- (a) a particular suspect is being detained in prison; and
- (b) a forensic procedure is to be carried out on the suspect (whether or not the forensic procedure is to be carried out in prison);

one or more prison officers may be present while the forensic procedure is carried out.

Subdivision E—Recording of forensic procedure

23XT Recording of forensic procedure

- (1) The carrying out of a forensic procedure (other than the taking of a hand print, finger print, foot print or toe print) must be video recorded unless:
 - (a) the suspect objects to the video recording; or
 - (b) the video recording is not practicable.
- (2) Before the forensic procedure is carried out, the suspect must be informed:
 - (a) of the reasons for video recording the carrying out of the forensic procedure, including the protection that the video recording provides for the suspect; and
 - (b) that the suspect may object to the video recording.

- (3) In spite of section 23YE, an interview friend of an Aboriginal person or a Torres Strait Islander not covered by section 23XQ has no right to object to the video recording of the forensic procedure.

Note: Section 23YE gives interview friends and legal representatives general powers to act on behalf of suspects. Section 23XQ applies to children and incapable persons, including children or incapable persons who are Aboriginal persons or Torres Strait Islanders, but does not apply to other Aboriginal persons or Torres Strait Islanders.

- (4) If the carrying out of the forensic procedure is not to be video recorded, the forensic procedure must be carried out in the presence of an independent person (not a constable).

Subdivision F—Procedure after forensic procedure is carried out

23XU Samples—sufficient material to share

- (1) This section applies to a sample taken from a suspect under this Part if there is sufficient material to be analysed both in the investigation of the offence and on behalf of the suspect.
- (2) The investigating constable must ensure that:
 - (a) a part of the material sufficient for analysis is made available to the suspect as soon as practicable after the procedure has been carried out; and
 - (b) that reasonable care is taken to ensure that the suspect's part of the material is protected and preserved until the suspect receives it; and
 - (c) that reasonable assistance is given to the suspect to ensure that the material is protected and preserved until it can be analysed.

Note: Division 9 contains provisions about making material available to the suspect.

23XUA Samples—insufficient material to share

- (1) This section applies to a sample taken from a suspect under this Part if:
 - (a) there is not sufficient material to be analysed both in the investigation of the offence and on behalf of the suspect; and
 - (b) the material does not need to be analysed immediately after the sample is taken.
- (2) The suspect is entitled to request that a person of his or her choice be present while the material is analysed in the investigation of the offence.

Note: Section 23YE provides that the request may be made by the suspect's legal representative or interview friend.
- (3) The person chosen is to be present at the analysis of the material unless he or she:
 - (a) is unable, or does not wish, to attend; or
 - (b) cannot be contacted;

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within a reasonable time or, if relevant, within the time in which the person responsible for analysing the material considers the analysis should be carried out if it is to provide valid results.

23XV Photographs

Where a forensic procedure involves the taking of a photograph of a part of a suspect's body, the investigating constable must ensure that a copy of the photograph is made available to the suspect.

Note: Division 9 contains provisions about making copies of material available to the suspect.

23XW Results of analysis

If material from a sample taken from a suspect is analysed in the investigation of the offence, the investigating constable must ensure that a copy of the results of the analysis is made available to the suspect.

Note: Division 9 contains provisions about making copies of material available to the suspect.

23XWA Preventing the carrying out of forensic procedure

A person is guilty of an offence if the person obstructs, hinders or resists a person carrying out a forensic procedure in accordance with this Part.

Penalty: Imprisonment for 2 years.

Division 6A—Carrying out of certain forensic procedures after conviction of serious and prescribed offenders

23XWB Forensic procedures to which Division applies

Intimate forensic procedures to which Division applies

- (1) This Division applies to the following intimate forensic procedures:
 - (a) the taking of a sample of blood;
 - (b) the taking of a buccal swab.

Non-intimate forensic procedures to which Division applies

- (2) This Division applies to the following non-intimate forensic procedures:
 - (a) the taking of samples of hair other than pubic hair;
 - (b) the taking of fingerprints.

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- (3) A person is authorised by this section to carry out a forensic procedure under this Division on a serious offender or a prescribed offender whether convicted of the serious or prescribed offence concerned before or after the commencement of this section.

23XWC Non-intimate forensic procedures authorised to be carried out on offenders

- (1) A person is authorised to carry out a non-intimate forensic procedure to which this Division applies on a person (other than a child or an incapable person) who is a serious offender:
 - (a) with the informed consent of the serious offender; or
 - (b) by order of a constable under section 23XWK.
- (2) A person is authorised to take the fingerprints of a prescribed offender (other than a child or an incapable person):
 - (a) with the informed consent of the prescribed offender; or

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- (b) by order of a constable under section 23XWK.
- (3) A person is authorised to carry out a non-intimate forensic procedure to which this Division applies on a child or an incapable person who is a serious offender, or to take the fingerprints of a child or incapable person who is a prescribed offender, by order of a magistrate under section 23XWO.

23XWD Intimate forensic procedures authorised to be carried out on serious offenders

A person is authorised to carry out an intimate forensic procedure to which this Division applies on a person (other than a child or incapable person) who is a serious offender:

- (a) with the informed consent of the serious offender; or
- (b) by order of a magistrate under section 23XWO.

23XWE Application of Division 6

- (1) Division 6 applies to the carrying out under this Division of a forensic procedure on an offender as if the references to the suspect in Division 6 were references to the offender.
- (2) A person is authorised by section 23XWC or 23XWD to carry out a forensic procedure under this Division in accordance with Division 6 as applied by this section and not otherwise.

23XWF Scope of authorisation

- (1) A person is not authorised to carry out a forensic procedure under this Division on a serious offender or a prescribed offender if the serious offender or prescribed offender is a suspect or a volunteer.
- (2) A forensic procedure may be carried out on a serious offender or prescribed offender who is a suspect only if authorised by and in accordance with Divisions 2 to 5.
- (3) A forensic procedure may be carried out on a serious offender or prescribed offender who is a volunteer only if authorised by and in accordance with Division 6B.

23XWG Informed consent to forensic procedures

- (1) An offender gives informed consent to a forensic procedure if the offender consents after a constable:
 - (a) requests the offender to consent to the forensic procedure under section 23XWH; and
 - (b) informs the offender about the forensic procedure in accordance with section 23XWJ; and
 - (c) gives the offender the opportunity to communicate, or attempt to communicate, with a legal practitioner of the offender's choice.
- (2) The constable must allow the offender to communicate, or attempt to communicate, with the legal practitioner in private unless the constable suspects on reasonable grounds that the offender might attempt to destroy or contaminate any evidence that might be obtained by carrying out the forensic procedure.

Note: Section 23YI states that the burden lies on the prosecution to prove on the balance of probabilities that a constable had a suspicion on reasonable grounds.

23XWH Constable may request offender to consent to forensic procedure

A constable may request:

- (a) a serious offender (other than a child or an incapable person) to consent to an intimate or non-intimate forensic procedure to which this Division applies being carried out on the serious offender; or
- (b) a prescribed offender (other than a child or an incapable person) to consent to the taking of the offender's fingerprints.

23XWI Matters to be considered by constable before requesting consent to forensic procedure

Before a request is made under section 23XWH, the constable must be satisfied on the balance of probabilities that:

- (a) in the case of a person on whom the procedure is proposed to be carried out who is not serving a sentence of imprisonment in a prison or other place of detention—that the person is an offender; and

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- (b) the request for consent to carry out the forensic procedure is justified in all the circumstances.

23XWJ Matters that offender must be informed of before giving consent

- (1) The constable must inform the offender of the following:
 - (a) the purpose for which the forensic procedure is required;
 - (b) if the constable wants the forensic procedure carried out in relation to an offence—the offence concerned;
 - (c) the way in which the forensic procedure is to be carried out;
 - (d) that the forensic procedure may produce evidence against the offender that might be used in a court of law;
 - (e) that the forensic procedure will be carried out by a person who may carry out the procedure under Division 6 as applied by section 23XWE;

Note: See section 23XM.

- (f) if the forensic procedure is the taking of a sample of blood, that the offender may request that:
 - (i) if the offender is serving a sentence of imprisonment in a prison or other place of detention—the prison medical officer be present while the blood is taken; or
 - (ii) if the offender is not serving a sentence of imprisonment—a medical practitioner of the offender's choice be present while the blood is taken;
- (g) that the offender may refuse consent to the carrying out of the forensic procedure;
- (h) the consequences of not consenting, as specified in subsection (2) or (3) (whichever is applicable);
- (i) the effect of section 23XZ (if applicable);
- (j) that information obtained from analysis of forensic material obtained may be placed on the Commonwealth DNA database system and used for the purposes of a criminal investigation or for any other purpose for which the Commonwealth DNA database system may be used under Division 8A.

Effect of failure to consent to non-intimate forensic procedure

- (2) The constable must inform a serious offender requested to undergo a non-intimate forensic procedure to which this Division applies or a prescribed offender requested to consent to the taking of his or her fingerprints that, if the offender does not consent, a constable may order the carrying out of the forensic procedure under section 23XWK if the constable has taken into account the matters set out in section 23XWL.

Effect of failure to consent to intimate forensic procedure

- (3) The constable must inform a serious offender requested to undergo an intimate forensic procedure to which this Division applies that, if the serious offender does not consent, an application may be made to a magistrate for an order authorising the carrying out of the forensic procedure.

23XWK Circumstances in which constable may order non-intimate forensic procedure

A constable may order the carrying out of a non-intimate forensic procedure to which this Division applies on a serious offender or the taking of the fingerprints of a prescribed offender other than a child or an incapable person if:

- (a) the offender has been asked under section 23XWH to consent to the carrying out of the forensic procedure; and
- (b) the offender has not consented; and
- (c) the constable has taken into account the matters set out in section 23XWL.

23XWL Matters to be considered by constable

In determining whether to make an order under section 23XWK, the constable is to take into account:

- (a) whether this Part would authorise the forensic procedure to be carried out in the absence of the order; and
- (b) the seriousness of the circumstances surrounding the offence committed by the offender; and
- (c) whether the carrying out of the forensic procedure could assist law enforcement, whether Federal or otherwise; and

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- (d) whether the carrying out of the forensic procedure without consent is justified in all the circumstances.

23XWM Recording of giving of information and consent

- (1) The constable must, if practicable, ensure that the giving of the information about the proposed forensic procedure and the offender's responses (if any) are tape recorded.
- (2) If tape recording the giving of the information and the offender's responses (if any) is not practicable, the constable must ensure that:
 - (a) a written record of the giving of the information and the offender's responses (if any) is made; and
 - (b) a copy of the record is made available to the serious offender.

Note: Division 9 contains provisions about making copies of material (including tapes) available to the serious offender.

23XWN Record of constable's order

- (1) The constable must, at the time of, or as soon as practicable after, making an order under section 23XWK, make a record of:
 - (a) the order; and
 - (b) the date and time when the order was made; and
 - (c) the reasons for making it, and sign the record.
- (2) The constable must ensure that a copy of the record is made available to the offender as soon as practicable after the record is made.

23XWO Judge or magistrate order for carrying out forensic procedure on offender

- (1) An authorised applicant may apply to any judge or magistrate for an order directing a serious offender to consent to an intimate forensic procedure to which this Division applies being carried out on the serious offender.
- (2) An authorised applicant may apply to any judge or magistrate for an order for the carrying out of a non-intimate forensic procedure to which this Division applies on a child or an incapable person who is a serious offender.

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- (3) An application under subsection (1) or (2) must be accompanied by an affidavit by the authorised applicant dealing with the matters referred to in subsection (7).
- (4) An authorised applicant may apply to any judge or magistrate for an order for the taking of the fingerprints under this Division of a child or an incapable person who is a prescribed offender.
- (5) An authorised applicant may make an application under this section to the judge or magistrate that is sentencing an offender or to any other judge or magistrate at a later time.
- (6) A judge or magistrate may order the carrying out of a forensic procedure under this Division if satisfied that the carrying out of the forensic procedure is justified in all the circumstances.
- (7) In determining whether to make an order under this section, a judge or magistrate is to take into account:
 - (a) whether this Part would authorise the forensic procedure to be carried out in the absence of the order; and
 - (b) the seriousness of the circumstances surrounding the commission of the offence by the offender; and
 - (c) whether the carrying out of the forensic procedure could assist law enforcement, whether Federal or otherwise; and
 - (d) whether the carrying out of the forensic procedure is justified in all the circumstances.
- (8) An order under this section takes effect immediately. However, the person who conducts any analysis of forensic material obtained as a result of carrying out the forensic procedure on an offender must not disclose the results of the analysis:
 - (a) until the expiration of any appeal period or after the final determination of any appeal in relation to the offence concerned, whichever is the later; or
 - (b) if the conviction is quashed.

23XWP Carrying out forensic procedure following conviction

- (1) If:
 - (a) an offender is in prison or another place of detention; and
 - (b) a judge or magistrate orders the offender to permit a forensic procedure to be carried out under this Division;
-

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the judge or magistrate may order that a constable and a Division 6 person be permitted to attend on the offender in the prison or place of detention to allow the forensic procedure to be carried out.

- (2) In subsection (1), **Division 6 person** means a person who, under Division 6 as applied by section 23XWE, may carry out the forensic procedure.
- (3) If a judge or magistrate orders an offender who is not in a prison or another place of detention to permit a forensic procedure to be carried out, the judge or magistrate may order the offender to attend at a police station (or other place specified by the judge or magistrate) within a period specified by the judge or magistrate to allow the forensic procedure to be carried out.
- (4) An offender ordered to permit the carrying out of a forensic procedure is guilty of an offence if the offender, without reasonable excuse, refuses or fails to permit the forensic procedure to be carried out.

Penalty: Imprisonment for 12 months.

Note: A defendant bears the evidential burden in relation to the exception of reasonable excuse—see subsection 13.3(3) of the *Criminal Code*.

Division 6B—Carrying out of forensic procedures on volunteers and certain other persons

23XWQ Carrying out of forensic procedures on volunteers

(1) In this Part:

volunteer means a person:

- (a) who volunteers to a constable to undergo a forensic procedure; or
 - (b) in the case of a child or incapable person—whose parent or guardian volunteers on the child or incapable person’s behalf to a constable that the child or incapable person undergo a forensic procedure.
- (2) A person is authorised to carry out a forensic procedure:
- (a) on a volunteer other than a child or an incapable person— with the informed consent of the volunteer given in accordance with section 23XWR; or
 - (b) on a volunteer who is a child or an incapable person:
 - (i) with the informed consent of the parent or guardian of the volunteer given in accordance with section 23XWR or by order of a magistrate under section 23XWU; and
 - (ii) after the person has informed the child or incapable person that, even though consent has been given or an order made, if he or she objects to or resists the carrying out of the forensic procedure it will not be carried out.
- (3) This section only authorises a person to carry out a forensic procedure if the procedure is necessary, or incidental to, the carrying out of an AFP function.
- (4) This section does not authorise a person to carry out a forensic procedure on a child or an incapable person who objects to or resists the carrying out of the forensic procedure.
- (5) Division 6 applies to the carrying out of a forensic procedure under this Division as if the references to a suspect in that Division were references to a volunteer referred to in this section. A person is authorised by this section to carry out a forensic procedure on a

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volunteer in accordance with Division 6 as so applied and not otherwise.

23XWR Informed consent of volunteer or parent or guardian of volunteer

- (1) A volunteer, or parent or guardian of a volunteer, gives informed consent in accordance with this section if the volunteer, parent or guardian consents in the presence of an independent person (not being a constable) after a constable informs the volunteer, parent or guardian of the following matters:
 - (a) the way in which the forensic procedure is to be carried out;
 - (b) that the volunteer is under no obligation to undergo the forensic procedure;
 - (c) that the forensic procedure may produce evidence that might be used in a court of law;
 - (d) to the extent that they are relevant, the matters specified in subsection (2);
 - (e) that the volunteer, parent or guardian may consult a legal practitioner of the volunteer's, parent's or guardian's choice before deciding whether or not to consent to the forensic procedure;
 - (f) that the volunteer, parent or guardian may at any time withdraw consent to:
 - (i) the volunteer undergoing the forensic procedure; or
 - (ii) retention of the forensic material taken; or
 - (iii) retention of information obtained from the analysis of that material.
- (2) The constable must inform the volunteer, or parent or guardian of the volunteer, of the following:
 - (a) that information obtained from analysis of forensic material taken from a person under this Division, and as to the identity of the person, may be placed on the Commonwealth DNA database system;
 - (b) that the volunteer has a choice as to whether the information is stored on the volunteers (limited purposes) index or the volunteers (unlimited purposes) index of that system;
 - (ba) if the information is placed on the volunteers (limited purposes) index—the purpose for which the information is

- placed on the index and that the information may only be used for that purpose;
- (c) if the information is placed on the volunteers (unlimited purposes) index—that the information may be used for the purposes of a criminal investigation or any other purpose for which the Commonwealth DNA database system may be used under Division 8A;
 - (d) that information placed on the Commonwealth DNA database system will be retained for such period as the Commissioner and the volunteer (or, in the case of a volunteer who is a child or an incapable person, a parent or guardian of the volunteer) agree and must then be removed from the system;
 - (e) any other matters prescribed by the regulations.

23XWS Recording of giving of information and consent

- (1) The constable must, if practicable, ensure that the giving of the information about the proposed forensic procedure and the volunteer's or volunteer's parent's or guardian's responses (if any) are tape recorded.
- (2) If tape recording the giving of information and the volunteer's, parent's or guardian's responses (if any) is not practicable, the constable must ensure that:
 - (a) a written record of the giving of the information and the volunteer's, parent's or guardian's responses (if any) is made; and
 - (b) a copy of the record is made available to the volunteer, parent or guardian.

23XWT Withdrawal of consent

- (1) If a volunteer, or parent or guardian of the volunteer, expressly withdraws consent to the carrying out of a forensic procedure under this Division (or if the withdrawal of such consent can reasonably be inferred from the volunteer's, parent's or guardian's conduct) before or during the carrying out of the forensic procedure:

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- (a) the forensic procedure is to be treated from the time of the withdrawal as a forensic procedure for which consent has been refused; and
 - (b) the forensic procedure is not to proceed except (in the case of a child or incapable person) by order of a magistrate under section 23XWU.
- (2) If:
- (a) a forensic procedure is carried out on a volunteer under this Division; and
 - (b) after the procedure is carried out, the volunteer, or the parent or guardian of the volunteer, expressly withdraws consent to retention of the forensic material taken or of information obtained from the analysis of that material;
- then, subject to any order made under section 23XWV, the forensic material and any information obtained from analysis of the material is to be destroyed as soon as practicable after the consent is withdrawn.
- (3) A constable may request, but cannot require, a parent or guardian who withdraws consent to the carrying out of a forensic procedure under this Division to confirm the withdrawal of consent in writing.

23XWU Circumstances in which magistrate may order the carrying out of forensic procedure on a child or incapable person

- (1) A magistrate may order the carrying out of a forensic procedure on a child or incapable person if:
- (a) the consent of the parent or guardian of the child or incapable person to the carrying out of the forensic procedure cannot reasonably be obtained from a parent or guardian of the child or incapable person; or
 - (b) the parent or guardian of the child or incapable person refuses consent to the carrying out of the forensic procedure and the magistrate is satisfied that there are reasonable grounds to believe:
 - (i) that the parent or guardian is a suspect; and
 - (ii) that the forensic procedure is likely to produce evidence tending to confirm or disprove that he or she committed an offence; or

- (c) the parent or guardian of the child or incapable person consented to the carrying out of the forensic procedure, but subsequently withdraws that consent.
- (2) In determining whether to make an order under this section, the magistrate is to take into account the following:
- (a) whether this Part would authorise the carrying out of the forensic procedure apart from this section;
 - (b) if the forensic procedure is being carried out for the purposes of the investigation of a particular offence—the seriousness of the circumstances surrounding the commission of the offence;
 - (c) the best interests of the child or incapable person;
 - (d) so far as they can be ascertained, any wishes of the child or incapable person with respect to whether the forensic procedure should be carried out;
- Note: A forensic procedure cannot be carried out on a child or an incapable person who objects to or resists the carrying out of the procedure even if the magistrate makes an order. See subparagraph 23XWQ(2)(b)(ii) and subsection 23XWQ(3).
- (e) except in the circumstances referred to in paragraph (1)(b), any wishes expressed by the parent or guardian of the child or incapable person with respect to whether the forensic procedure should be carried out;
 - (f) whether the carrying out of the forensic procedure is justified in all the circumstances.
- (3) An order under this section may:
- (a) require the forensic procedure to be carried out at a time, or place, or in a manner, specified in the order; or
 - (b) specify the period for which forensic material obtained from carrying out the procedure may be retained.

23XWV Retention of forensic material by order of a magistrate after volunteer, parent or guardian of child or incapable person withdraws consent

- (1) An authorised applicant may apply to a magistrate for an order under subsection (2).

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- (2) A magistrate may order that forensic material taken or information obtained from carrying out a forensic procedure on a volunteer who withdraws consent, or parent or guardian of a volunteer who withdraws consent, as the case may be, to the retention of the material be retained if the magistrate is satisfied that:
- (a) during an investigation into the commission of a serious offence, material reasonably believed to be from the body of a person who committed the offence had been found:
 - (i) at the scene of the offence; or
 - (ii) on the victim of the offence or anything reasonably believed to have been worn or carried by the victim when the offence was committed; or
 - (iii) on the volunteer or anything reasonably believed to have been worn or carried by the volunteer at the scene of the offence or when the offence was committed; or
 - (iv) on an object or person reasonably believed to have been associated with the commission of the offence; and
 - (b) there are reasonable grounds to believe that information obtained from analysis of the forensic material taken from the volunteer is likely to produce evidence of probative value in relation to the serious offence being investigated; and
 - (c) the retention of the forensic material taken from the volunteer is justified in all the circumstances.
- (3) The order may specify the period for which the forensic material taken or information obtained from carrying out the procedure may be retained.

Division 7—Admissibility of evidence

Subdivision A—Forensic evidence

23XX Inadmissibility of evidence from improper forensic procedures etc.

- (1) This section applies where:
 - (a) a forensic procedure has been carried out on a person; and
 - (b) there has been a breach of, or failure to comply with:
 - (i) any provision of this Part in relation to a forensic procedure carried out on the person (including, but not limited to, any breach or failure to comply with a provision requiring things to be done at any time before or after the forensic procedure is carried out); or
 - (ii) any provision of Division 8A with respect to recording or use of information on the Commonwealth DNA database system.
- (2) This section does not apply where:
 - (a) a provision of this Part required forensic material to be destroyed; and
 - (b) the forensic material has not been destroyed.

Note: Section 23XY applies where this Part requires forensic material to have been destroyed.
- (3) This section applies to:
 - (a) evidence of forensic material, or evidence consisting of forensic material, taken from the person by the forensic procedure; and
 - (b) evidence of any results of the analysis of the forensic material; and
 - (c) any other evidence made or obtained as a result of or in connection with the carrying out of the forensic procedure.

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- (4) Where this section applies, evidence described in subsection (3) is not admissible in any proceedings against the person in a court unless:
- (a) the person does not object to the admission of the evidence;
or
 - (b) the court is satisfied on the balance of probabilities of matters that, in the court's opinion, justify the admission of the evidence in the proceedings in spite of the failure to comply with the provisions of this Part.
- (5) The matters that may be considered by the court for the purposes of paragraph (4)(b) are the following:
- (a) the probative value of the evidence, including whether equivalent evidence or evidence of equivalent probative value could have been obtained by other means;
 - (b) the reasons given for the failure to comply with the provisions of this Part;
 - (c) the gravity of the failure to comply with the provisions of this Part, and whether the failure deprived the person of a significant protection under this Part;
 - (d) whether the failure to comply with the provisions of this Part was intentional or reckless;
 - (e) the nature of the provision of this Part that was not complied with;
 - (f) the nature of the offence concerned and the subject matter of the proceedings;
 - (g) whether admitting the evidence would seriously undermine the protection given to persons by this Part;
 - (h) any other matters the court considers to be relevant.
- (6) The probative value of the evidence does not by itself justify the admission of the evidence.
- (7) If a judge permits evidence to be given before a jury under subsection (4), the judge must:
- (a) inform the jury of the breach of, or failure to comply with, a provision of this Part; and
 - (b) give the jury such warning about the evidence as the judge thinks appropriate in the circumstances.

23XY Inadmissibility of evidence where forensic material required to be destroyed

- (1) If a provision of this Part requires forensic material taken from a person by a forensic procedure to be destroyed, subsection (2) applies to:
 - (a) evidence of the forensic material; and
 - (b) if the material has not been destroyed—evidence consisting of the forensic material; and
 - (c) any results of the analysis of the forensic material; and
 - (d) any other evidence made or obtained as a result of or in connection with the carrying out of the forensic procedure.
- (2) The results of the analysis, and the other evidence, are not admissible if adduced by the prosecution in any proceedings against the person, but may be admissible if adduced in such proceedings by the person.

Subdivision B—Other evidence

23XZ Admissibility of evidence relating to consent to forensic procedure

Evidence of a person's refusal or failure to consent, or withdrawal of consent, to a forensic procedure is not admissible in proceedings against the person except to establish or rebut an allegation that a constable or another person investigating the commission of the offence concerned acted contrary to law in carrying out that investigation.

23YA Admissibility of evidence relating to carrying out of forensic procedure

In spite of subsection 23XX(4), evidence of how a forensic procedure was carried out is admissible in proceedings against the person in a court:

- (a) to establish or rebut an allegation that unreasonable force was used to enable the procedure to be carried out; or
- (b) to determine the admissibility of a confession or admission or other evidence adverse to the person where the person alleges

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that the evidence was induced or obtained by the use of unreasonable force; or

- (c) to establish or rebut an allegation that the forensic procedure was not carried out in accordance with Division 6.

23YB Obstructing the carrying out of forensic procedure

- (1) This section applies where a constable or magistrate has ordered the carrying out of a forensic procedure on a suspect under this Part.
- (2) Subject to subsections (3) and (4), evidence that the suspect:
- (a) refused to comply with any reasonable direction in connection with the carrying out of the forensic procedure; or
 - (b) obstructed, resisted, hindered, used violence against, threatened or intimidated a person in connection with the carrying out of the forensic procedure;
- is admissible in any proceedings against the suspect in respect of a relevant offence.
- (3) Evidence described in subsection (2) is not admissible if the forensic procedure was in fact carried out satisfactorily.
- (4) Evidence described in subsection (2) is not admissible unless it is established that the suspect:
- (a) had been informed by a constable as described in subsection 23WA(4); or
 - (b) otherwise knew;
- that the fact of refusing to comply with the direction, or obstructing, resisting, hindering, using violence against, threatening or intimidating the person, in connection with the carrying out of the forensic procedure might be used in evidence against the suspect.
- (5) The court or jury may draw such inferences from the evidence described in subsection (2) as appear to the court or jury to be proper in the circumstances, having regard to any evidence given by or on behalf of the suspect.

Division 8—Destruction of forensic material

23YC Destruction of forensic material where interim order disallowed

- (1) If an interim order for the carrying out of a forensic procedure made under section 23XA is disallowed after the forensic procedure is carried out, the investigating constable must ensure that:
 - (a) all forensic material obtained as a result of the carrying out of the procedure is destroyed as soon as practicable after the disallowance; and
 - (b) a copy of the results of any analysis of the forensic material are made available to the suspect.

Note: Division 9 contains provisions about making copies of material available to the suspect.

- (2) If an order for the carrying out of a forensic procedure made under section 23XWU or for the retention of forensic material under section 23XWV specifies a period for which forensic material obtained as a result of the carrying out of the procedure may be retained, the forensic material is to be destroyed as soon as practicable after the end of the period.

23YD Destruction of forensic material after 12 months

- (1) This section applies where forensic material has been taken from a suspect by a forensic procedure carried out under this Part (except Divisions 6A and 6B).
- (2) If:
 - (a) a period of 12 months has elapsed since the forensic material was taken; and
 - (b) proceedings in respect of a relevant offence have not been instituted against the suspect, or have been discontinued;the forensic material must be destroyed as soon as practicable unless a warrant for apprehension of the suspect has been issued.

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- (3) If:
- (a) the suspect is found to have committed a relevant offence but no conviction is recorded; or
 - (b) the suspect is acquitted of such an offence and:
 - (i) no appeal is lodged against the acquittal; or
 - (ii) an appeal is lodged against the acquittal and the acquittal is confirmed or the appeal is withdrawn;the forensic material must be destroyed as soon as practicable unless an investigation into, or a proceeding against the suspect for, another relevant offence is pending.
- (4) If a warrant for the apprehension of the suspect is issued during the period of 12 months after forensic material is taken, the forensic material must be destroyed as soon as practicable after:
- (a) the warrant lapses; or
 - (b) a period of 12 months elapses after the suspect is apprehended.
- (5) A magistrate may, on application by a constable or the Director of Public Prosecutions, extend for a period not exceeding 12 months the period for which forensic material may be retained under this section, if the magistrate is satisfied there are special reasons for doing so.
- (6) A magistrate to whom an application is made under subsection (5) is not to extend the period unless:
- (a) the person from whom the forensic material was taken has been notified by the applicant for the extension that the application has been made; and
 - (b) the person or his or her legal representative or interview friend (if any) has been given the opportunity to speak to or make a submission to the magistrate concerning the extension.
- (7) An extension in relation to particular forensic material may be given on more than one occasion.
- (8) The magistrate is to ensure that the responsible person in relation to the Commonwealth DNA database system is notified of any extension given under this section.

23YDAA Destruction of forensic material taken from offender after conviction quashed

The constable who obtained an authority under section 23XWG, 23XWK or 23XWO for the carrying out of a forensic procedure on an offender whose conviction is quashed after the making of the order must ensure that any forensic material obtained as a result of the carrying out of the procedure is destroyed as soon as practicable after the conviction is quashed.

23YDAB Destruction of forensic material where related evidence is inadmissible

If a magistrate finds that evidence described in subsection 23XX(3) relating to a forensic procedure is inadmissible under section 23XX, the Commissioner must, as soon as practicable, ensure that any forensic material taken from the person by that forensic procedure is destroyed.

Division 8A—Commonwealth and State/Territory DNA database systems

23YDAC Definitions

In this Part:

Commonwealth agency means:

- (a) the Commonwealth; or
- (b) an authority of the Commonwealth.

Commonwealth DNA database system means a database (whether in computerised or other form and however described) containing:

- (a) the following indexes of DNA profiles (in so far as they relate to material taken or obtained by a Commonwealth agency):

- (i) a crime scene index;
- (ii) a missing persons index;
- (iii) an unknown deceased persons index;
- (iv) a serious offenders index;
- (v) a volunteers (unlimited purposes) index;
- (vi) a volunteers (limited purposes) index;
- (vii) a suspects index;

and, if the material is forensic material, information that may be used to identify the person from whose forensic material each DNA profile was derived; and

- (b) a statistical index (in so far as it relates to forensic material taken in accordance with this Part); and
- (c) any other index prescribed by the regulations for the purposes of this definition.

crime scene index means an index of DNA profiles derived from forensic material found:

- (a) at any place (whether within or outside Australia) where an offence (whether a prescribed offence or an offence under the law of a participating jurisdiction) was, or is reasonably suspected of having been, committed; or
- (b) on or within the body of the victim, or a person reasonably suspected of being a victim, of a prescribed offence; or

- (c) on anything worn or carried by the victim at the time when a prescribed offence was, or is reasonably suspected of having been, committed; or
- (d) on or within the body of any person, on any thing, or at any place, associated with the commission of a prescribed offence.

missing persons index means an index of DNA profiles derived from forensic material of:

- (a) persons who are missing; and
- (b) volunteers who are relatives by blood of missing persons.

National Criminal Investigation DNA Database or ***NCIDD*** means the database that is known as the National Criminal Investigation DNA Database and that is managed by the Commonwealth.

NCIDD: see ***National Criminal Investigation DNA Database***.

serious offenders index means an index of DNA profiles derived from forensic material taken from:

- (a) serious offenders in accordance with Division 6A, or under a corresponding law of a participating jurisdiction; and
- (b) suspects who have been convicted of a prescribed offence or an offence under a corresponding law of a participating jurisdiction.

State/Territory DNA database system means a database (whether in computerised or other form and however described) held by, or on behalf of, a participating jurisdiction for the purposes of a corresponding law.

statistical index means an index of information that:

- (a) is obtained from the analysis of forensic material taken from persons in accordance with this Part or under a corresponding law of a participating jurisdiction; and
- (b) has been compiled for statistical purposes; and
- (c) cannot be used to discover the identity of persons from whom the forensic material was taken.

suspects index means an index of DNA profiles derived from forensic material taken from suspects in accordance with Division 3, 4 or 5 or under a corresponding law of a participating jurisdiction.

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unknown deceased persons index means an index of DNA profiles derived from forensic material of deceased persons whose identities are unknown.

volunteers (limited purposes) index means an index of DNA profiles derived from forensic material taken in accordance with Division 6B or under a corresponding law of a participating jurisdiction from volunteers who (or whose parents or guardians) have been informed that information obtained will be used only for a purpose specified to them under paragraph 23XWR(2)(b).

volunteers (unlimited purposes) index means an index of DNA profiles derived from forensic material taken:

- (a) from volunteers who (or whose parents or guardians) have been informed under paragraph 23XWR(2)(c) that information obtained may be used for the purpose of a criminal investigation or any other purpose for which the Commonwealth DNA database system may be used under this Division, in accordance with Division 6B, or under a corresponding law of a participating jurisdiction; and
- (b) from deceased persons whose identity is known.

23YDACA Integration of Commonwealth DNA database system and State/Territory DNA database systems

- (1) The whole or a part of the Commonwealth DNA database system, or information obtained from the Commonwealth DNA database system, may be integrated (whether electronically or otherwise) with:
 - (a) the whole or a part of one or more State/Territory DNA database systems; or
 - (b) information obtained from one or more State/Territory DNA database systems;to form part of NCIDD.
- (2) A participating jurisdiction, or an authority of a participating jurisdiction, may access NCIDD to the extent that it consists of:
 - (a) the whole or a part of the State/Territory DNA database system of the participating jurisdiction; or
 - (b) information obtained from the State/Territory DNA database system of the participating jurisdiction;

but only if the participating jurisdiction, or the authority of the participating jurisdiction, is required or authorised by or under a law of the participating jurisdiction to access the State/Territory DNA database system of the participating jurisdiction.

- (3) No part of a State/Territory DNA database system, and no information obtained from a State/Territory DNA database system, forms part of the Commonwealth DNA database system by reason only of any integration referred to in subsection (1).
- (4) No part of the Commonwealth DNA database system, and no information obtained from the Commonwealth DNA database system, forms part of a State/Territory DNA database system by reason only of any integration referred to in subsection (1).
- (5) The existence of the Commonwealth DNA database system or a State/Territory DNA database system is not affected by reason only of any integration referred to in subsection (1).

23YDAD Supply of forensic material for purposes of DNA database

- (1) A person is guilty of an offence if:
 - (a) the person engages in conduct; and
 - (b) the person's conduct results in the forensic material taken from any person, and which is required to be destroyed, under this Part or under a corresponding law of a participating jurisdiction, to be supplied to another person; and
 - (c) the person is reckless as to whether the forensic material is required to be destroyed and the supply of the material to the other person; and
 - (d) the person intends that the forensic material be analysed for the purpose of deriving a DNA profile for inclusion on an index of the Commonwealth DNA database system.

Penalty: Imprisonment for 2 years.

- (2) A person is guilty of an offence if:
 - (a) the person engages in conduct; and
 - (b) that conduct results in the supply of forensic material to any person and the person is reckless as to that result; and

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- (c) the person is reckless as to whether the forensic material is not excluded forensic material; and
- (d) the person intends that the forensic material be analysed for the purpose of deriving a DNA profile for inclusion on an index of the Commonwealth DNA database system.

Penalty: Imprisonment for 2 years.

- (3) In this section:

excluded forensic material means forensic material:

- (a) found at a crime scene; or
- (b) taken from a suspect in accordance with Division 3, 4 or 5 or under a corresponding law of a participating jurisdiction; or
- (c) taken from a serious offender or a volunteer in accordance with Division 6A or 6B or under a corresponding law of a participating jurisdiction; or
- (d) taken from the body of a deceased person; or
- (e) that is from the body of a missing person; or
- (f) taken from a volunteer who is a relative by blood of a deceased or missing person.

23YDAE Use of information on Commonwealth DNA database system or NCIDD

- (1) A person is guilty of an offence if the person accesses information stored on the Commonwealth DNA database system or NCIDD otherwise than in accordance with this section.

Penalty: Imprisonment for 2 years.

- (2) A person may access information stored on the Commonwealth DNA database system or NCIDD for one or more of the following purposes:
- (a) the purpose of forensic comparison permitted under section 23YDAF (permissible matching);
 - (b) the purpose of making the information available, in accordance with the regulations, to the person to whom the information relates;
 - (c) the purpose of administering the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system;

- (d) the purpose of any arrangement mentioned in subsection 23YUD(1) or (1A) entered into between the Commonwealth and a State or Territory for the provision of access to information contained in the Commonwealth DNA database system or a State/Territory DNA database system by law enforcement officers or by any other persons prescribed by the regulations;
 - (e) the purpose of and in accordance with the *Mutual Assistance in Criminal Matters Act 1987* or the *Extradition Act 1988*;
 - (f) the purpose of a coronial inquest or inquiry;
 - (g) the purpose of an investigation of a complaint by the Privacy Commissioner of the Commonwealth or of a participating jurisdiction.
- (2A) A person may access information stored on NCIDD in the circumstances permitted by subsection 23YDACA(2).
- (3) This section does not apply to information that cannot be used to discover the identity of any person.

23YDAF Permissible matching of DNA profiles

- (1) A matching of a DNA profile on an index of the Commonwealth DNA database system specified in column 1 of the following table with a DNA profile on another index of the system specified in column 2, 3, 4, 5, 6, 7 or 8 of the table is not permitted by this Part if:
- (a) “no” is shown in relation to the index specified in column 2, 3, 4, 5, 6, 7 or 8 opposite the index specified in column 1; or
 - (b) “only if within purpose” is shown in relation to the index specified in column 2, 3, 4, 5, 6, 7 or 8 opposite the volunteers (limited purposes) index specified in column 1 and the matching is carried out for a purpose other than a purpose for which the DNA profile placed on the volunteers (limited purposes) index specified in column 1 was so placed.

Part ID Forensic procedures

Division 8A Commonwealth and State/Territory DNA database systems

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| Profile to be matched | Is matching permitted? | | | | | | |
|------------------------------------|---------------------------------|------------------------------|---|---|---------------------------------------|-------------------------------------|--|
| Column 1 | Column 2 Crime scene | Column 3 Suspects | Column 4 Volunteers (limited purposes) | Column 5 Volunteers (unlimited purposes) | Column 6 Serious offenders | Column 7 Missing persons | Column 8 Unknown deceased persons |
| 1. crime scene | yes | yes | only if within purpose | yes | yes | yes | yes |
| 2. suspects | yes | yes | only if within purpose | yes | yes | yes | yes |
| 3. volunteers (limited purposes) | only if within purpose | only if within purpose | only if within purpose | only if within purpose | only if within purpose | only if within purpose | only if within purpose |
| 4. volunteers (unlimited purposes) | yes | yes | only if within purpose | yes | yes | yes | yes |
| 5. serious offenders | yes | yes | only if within purpose | yes | yes | yes | yes |
| 6. missing persons | yes | yes | only if within purpose | yes | yes | yes | yes |
| 7. unknown deceased persons | yes | yes | only if within purpose | yes | yes | yes | yes |

- (2) A person is guilty of an offence if:
- (a) the person's conduct causes the matching that is not permitted by this Part of a DNA profile on an index of the Commonwealth DNA database system with a DNA profile on the same or another index of the Commonwealth DNA database system; and
 - (b) the person is reckless as to any such matching of profiles.

Penalty: Imprisonment for 2 years.

- (3) This section does not make it an offence for conduct to cause a matching that is not permitted by this Part if the matching is solely for the purposes of administering the Commonwealth DNA database system.

Note: A defendant bears the evidential burden in relation to the matter in subsection (3)—see subsection 13.3(3) of the *Criminal Code*.

23YDAG Recording, retention and removal of identifying information on Commonwealth DNA database system

- (1) A person is guilty of an offence if:
- (a) the person's conduct causes any identifying information about a person obtained from forensic material taken from the person under this Part to be recorded or retained in the Commonwealth DNA database system at any time after this Part requires the forensic material to be destroyed; and
 - (b) the person is reckless as to the recording or retention or whether the forensic material is required to be destroyed.

Penalty: Imprisonment for 2 years.

- (2) The responsible person is guilty of an offence if he or she does not ensure that any identifying information, relating to a person from whose forensic material a DNA profile on the volunteers (unlimited purposes) index or volunteers (limited purposes) index of the Commonwealth DNA database system was derived, is removed from the system as soon as practicable after the end of the identifying period for the profile.

Penalty: Imprisonment for 2 years.

Note: See subsection 23WA(1) for *responsible person*.

- (3) The responsible person is guilty of an offence if he or she does not ensure that any identifying information relating to a DNA profile of an offender on the serious offenders index of the Commonwealth DNA database system is removed from the system as soon as practicable after becoming aware that the offender has been pardoned or acquitted of the offence concerned or if the conviction has been quashed.

Penalty: Imprisonment for 2 years.

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Note: See subsection 23WA(1) for *responsible person*.

(4) In this section:

identifying information means any information that could be used:

- (a) to discover the identity of the person from whose forensic material the DNA profile was derived; or
- (b) to get information about an identifiable person.

identifying period for a DNA profile means the following:

- (a) except as provided by paragraphs (b) and (c), the period of 12 months after the DNA profile is placed on the Commonwealth DNA database system;
- (b) if the DNA profile is derived from forensic material taken from a volunteer—such period after the DNA profile is placed on the Commonwealth DNA database system as is agreed by the Commissioner and the volunteer (or, in the case of a volunteer who is a child or an incapable person, a parent or guardian of the volunteer);
- (c) if the DNA profile is derived from forensic material taken from a deceased person (not being a person who was a volunteer) whose identity is known—such period as the Commissioner orders the responsible person to retain identifying information relating to the profile.

Division 9—General provisions relating to operation of this Part

23YDA Interpreters

- (1) Where:
 - (a) a constable proposes to take an action listed in subsection (2);
and
 - (b) the constable believes on reasonable grounds that the suspect is unable, because of inadequate knowledge of the English language or a physical disability, to communicate orally with reasonable fluency in the English language;the constable must, before taking the proposed action, arrange for the presence of an interpreter, and defer taking the proposed action until the interpreter is present.
- (2) The actions are as follows:
 - (a) asking a suspect to consent to a forensic procedure (Division 3);
 - (b) ordering the carrying out of a non-intimate forensic procedure on a suspect who is in custody (Division 4);
 - (c) applying to a magistrate for a final order or an interim order for the carrying out of a forensic procedure on a suspect (Division 5);
 - (d) cautioning a suspect (Division 6);
 - (e) carrying out, or arranging for the carrying out of, a forensic procedure on a suspect (Division 6);
 - (f) giving a suspect an opportunity to view a video recording made under this Part (section 23YF).

23YE Powers etc. of legal representatives and interview friends

- (1) A request or objection that may be made by a suspect or offender under this Part may be made on the suspect's or offender's behalf by:
 - (a) in any case—the suspect's or offender's legal representative;
or
 - (b) if the suspect or offender is a child or an incapable person—an interview friend of the suspect or offender; or

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- (c) if the investigating constable believes on reasonable grounds that the suspect or offender is an Aboriginal person or a Torres Strait Islander—an interview friend of the suspect or offender.
- (2) If:
- (a) a provision of this Part requires a suspect or offender to be informed of a matter; and
 - (b) an interview friend or legal representative of the suspect is present when the suspect or offender is to be so informed; and
 - (c) the suspect or offender is so informed in a language (including in sign language or braille) in which the suspect's or offender's interview friend or legal representative is not able to communicate with reasonable fluency;
- the interview friend or legal representative must also be informed of the matter in a language in which the interview friend or legal representative is able to communicate with reasonable fluency.

23YF Obligation of investigating constables relating to tape recordings

- (1) If a tape recording is made as required by a provision of this Part, the investigating constable must ensure that:
 - (a) if an audio recording only or a video recording only is made—the recording, or a copy of it, is made available to the suspect, offender or volunteer; and
 - (b) if both an audio recording and a video recording are made:
 - (i) the audio recording, or a copy of it, is made available to the suspect, offender or volunteer; and
 - (ii) the suspect, offender or volunteer is given an opportunity to view the video recording; and
 - (c) in any case, if a transcript of the tape recording is made—a copy of the transcript is made available to the suspect, offender or volunteer.
- (2) Where an investigating constable is required to ensure that a suspect, offender or volunteer is given an opportunity to view a video recording made under this Part, the investigating constable must ensure that the same opportunity is given to:

- (a) in any case—the suspect’s, offender’s or volunteer’s legal representative; and
 - (b) if the suspect, offender or volunteer is a child or an incapable person—an interview friend of the suspect, offender or volunteer; and
 - (c) if the investigating constable believes on reasonable grounds that the suspect, offender or volunteer is an Aboriginal person or a Torres Strait Islander—an interview friend of the suspect, offender or volunteer.
- (3) If section 23YD requires forensic material taken from a suspect, offender or volunteer by a forensic procedure to be destroyed, the investigating constable must ensure that any video recording of the carrying out of the forensic procedure is also destroyed.

23YG Material required to be made available to suspect, offender or volunteer

- (1) Material from samples, copies, or any other material, that must be made available to a suspect, offender or volunteer under this Part:
- (a) may be sent to the suspect, offender or volunteer at his or her last known address (if any), or to the suspect’s, offender’s or volunteer’s legal representative (if any) at his or her last known address; or
 - (b) if there is no known address as mentioned in paragraph (a)—may be made available for collection by the suspect, offender or volunteer at the police station where the investigating constable was based at the time the forensic procedure was carried out.
- (2) Material of any kind (other than material from samples and copies of records made under section 23XE) that is required by this Part to be made available to a suspect, offender or volunteer must be made available in accordance with subsection (1):
- (a) within 7 days after the material comes into existence; or
 - (b) if the material is requested by the suspect, offender or volunteer or the suspect’s, offender’s or volunteer’s interview friend or legal representative, within 7 days of the request.

Note: The timing of making sample material available is covered in section 23XU. The timing of making copies of section 23XE records available is covered in subsection 23XE(5).

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23YH No charge to be made for giving material etc. to suspects, offenders and volunteers

If a provision of this Part requires material of any kind to be given to a suspect, offender or volunteer, or an opportunity to view a video recording to be given to a suspect, offender or volunteer, the material or the opportunity to view the video must be given without charge.

23YI Proof of belief or suspicion

In any proceedings, the burden lies on the prosecution to prove on the balance of probabilities that a constable had a belief on reasonable grounds, or suspected on reasonable grounds, as to a matter referred to in this Part.

23YJ Proof of impracticability

In any proceedings, the burden lies on the prosecution to prove on the balance of probabilities that it was not practicable to do something required by this Part to be done if practicable.

23YJA Proof that time should be disregarded

In any proceedings, the burden lies on the prosecution to prove on the balance of probabilities that any particular time was covered by a provision of subsection 23WLA(2), 23XGB(2) or 23XGD(2).

23YK Proof of voluntary waiver of certain rights

In any proceedings:

- (a) the burden lies on the prosecution to prove that an Aboriginal person or Torres Strait Islander has waived a right as mentioned in subsection 23WG(3) or subsection 23XR(3); and
- (b) the burden is not discharged unless the court is satisfied on the balance of probabilities that the person voluntarily waived that right, and did so with full knowledge and understanding of what he or she was doing.

23YL Liability for forensic procedures

No civil or criminal liability is incurred by any person (including a constable) who carries out, or helps to carry out, a forensic procedure under this Part in respect of anything properly and necessarily done in good faith by the person in carrying out or helping to carry out the forensic procedure if the person believed on reasonable grounds that:

- (a) informed consent had been given to the carrying out of the forensic procedure; or
- (b) the carrying out of the forensic procedure without informed consent had been duly ordered by a constable or magistrate under this Part.

Note: This section does not provide any protection in respect of action taken maliciously.

23YM Experts not obliged to carry out forensic procedures

Nothing in this Part requires a medical practitioner, nurse, dentist, dental technician or appropriately qualified person to carry out a forensic procedure.

23YN Retention of electronic recordings

- (1) A tape recording made by a constable in accordance with this Part that is no longer required for investigative or evidentiary purposes may be retained for such other purposes, and for such period, as the Commissioner directs.
- (2) A recording that is retained under this section is to be stored so as to protect it against unauthorised access or use by any person.

23YO Disclosure of information

- (1) A person is guilty of an offence if:
 - (a) the person has access to any information stored on the Commonwealth DNA database system or NCIDD or to any other information revealed by a forensic procedure carried out on a suspect, offender or volunteer; and
 - (b) the person's conduct causes the disclosure of information other than as provided by this section; and

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(c) the person is reckless as to any such disclosure.

Penalty: Imprisonment for 2 years.

- (1A) Paragraph (1)(a) does not apply to access to information stored on NCIDD in the circumstances permitted by subsection 23YDACA(2).
- (2) A person may only disclose information stored on the Commonwealth DNA database system or NCIDD for one or more of the following purposes:
- (a) the purposes of forensic comparison in the course of a criminal investigation by a constable or other person prescribed by the regulations;
 - (b) the purposes of making the information available, in accordance with the regulations, to the person to whom the information relates;
 - (c) the purposes of administering the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system;
 - (d) the purposes of any arrangement mentioned in subsection 23YUD(1) or (1A) entered into between the Commonwealth and a State or Territory for the provision of access to information contained in the Commonwealth DNA database system or a State/Territory DNA database system by law enforcement officers or by any other persons prescribed by the regulations;
 - (e) the purposes of, and in accordance with, the *Mutual Assistance in Criminal Matters Act 1987* or the *Extradition Act 1988*;
 - (f) the purpose of a coronial inquest or inquiry;
 - (g) the purposes of an investigation by the Privacy Commissioner or the Ombudsman of the Commonwealth or of a participating jurisdiction.
- (3) A person may only disclose information revealed by the carrying out of a forensic procedure as follows:
- (a) if the person is the suspect, offender or volunteer to whom the information relates;
 - (b) if the information is already publicly available;
 - (c) in accordance with any other provision of this Part;

- (d) in accordance with the *Mutual Assistance in Criminal Matters Act 1987* or the *Extradition Act 1988*;
 - (e) for the purposes of the investigation of any offence or offences generally;
 - (f) for the purpose of a decision whether to institute proceedings for any offence;
 - (g) for the purpose of proceedings for any offence;
 - (h) for the purpose of a coronial inquest or inquiry;
 - (i) for the purpose of civil proceedings (including disciplinary proceedings) that relate to the way in which the procedure is carried out;
 - (ia) for the purpose of dealing with or investigating, under Part V or the *Australian Federal Police Act 1979*, an AFP conduct or practices issue (within the meaning of that Act) that relates to the way in which the procedure is carried out;
 - (j) for the purposes of the suspect's, offender's or volunteer's medical treatment;
 - (k) for the purpose of the medical treatment of the victim of an offence that there are reasonable grounds to believe was committed by the suspect;
 - (l) if the suspect, offender or volunteer consents in writing to the disclosure.
- (4) This section does not apply to information that cannot be used to discover the identity of any person.

23YP Taking, retention and use of forensic material

Taking, retention and use authorised by laws of other jurisdictions

- (1) Nothing in this Part affects the taking, retention or use of forensic material, or information obtained from forensic material, if the taking, retention or use of the material is authorised by or under a law of a State or a Territory.
- (2) Forensic material, or information obtained from it, that was taken in accordance with a law of a State or a Territory may be retained or used for investigative, evidentiary or statistical purposes of the Commonwealth. The material or information may be retained or used even if its retention or use would, but for this subsection,

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constitute a breach of, or failure to comply with, any provision of this Part relating to the carrying out of forensic procedures.

Use and retention of forensic material taken before commencement of subsection

- (3) Forensic material, or information obtained from it, that is taken in accordance with a law of a State or a Territory, as in force immediately before the commencement of this subsection, may be retained or used for investigative, evidentiary or statistical purposes of the Commonwealth. The material or information may be retained or used even if its retention or use would, but for this subsection, constitute a breach of, or failure to comply with, any provision of this Part relating to the carrying out of forensic procedures.

23YQ Commissioner may delegate functions and powers

- (1) The Commissioner of the Australian Federal Police may delegate all or any of his or her functions and powers under this Part to a constable or staff member.
- (2) In subsection (1), *staff member* has the meaning it has in the *Australian Federal Police Act 1979*.

Division 10—Operation of this Part and effect on other laws

23YQA Part does not apply to persons under 10

This Part does not authorise the carrying out of a forensic procedure on a person who is under 10 years of age.

23YR Relationship with Part IAA

This Part does not apply to the taking of hand prints, finger prints, foot prints or toe prints:

- (a) from a suspect who is under 18 years of age or is incapable of managing his or her affairs, if the suspect has been arrested and charged as mentioned in section 3ZJ; or
- (b) from a suspect who is at least 18 years of age and is capable of managing his or her affairs, if the suspect is in lawful custody in respect of an offence as mentioned in section 3ZJ.

Note: Part IAA deals with the taking of identification material as defined in subsection 3ZJ(1) (which includes prints) from suspects described in paragraphs 23YR(a) and (b).

23YS Relationship with Part IC

- (1) Nothing in this Part is intended to limit the rights and protections provided by Part IC to the extent that the provisions of that Part can operate in circumstances covered by this Part.
- (2) The rights and protections conferred by this Part are in addition to those conferred by Part IC but, to the extent (if any) that compliance with this Part results in compliance with Part IC, the requirements of Part IC are satisfied.

23YU Application of other laws

- (1) This Part is not intended to limit or exclude the operation of another law of the Commonwealth or of a law of a State or Territory relating to:
 - (a) the carrying out of forensic procedures, including procedures not referred to in this Part; or

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- (aa) without limiting paragraph (a), the carrying out of breath analysis or a breath test or the production of samples of blood and urine to determine the level of alcohol or drugs, if any, present in a person's body; or
 - (b) the taking of forensic samples, including samples not referred to in this Part; or
 - (c) the taking of identification evidence; or
 - (d) the carrying out of searches of the person; or
 - (e) the retention or use of forensic material or information obtained as a result of activities described in paragraphs (a), (b), (c) and (d).
- (2) To avoid any doubt, it is declared that even though another law of the Commonwealth provides power to do one or more of the things referred to in subsection (1), a similar power conferred by this Part may be used despite the existence of the power under the other law.

Division 11—Interjurisdictional enforcement

23YUA Definitions

In this Part:

appropriate authority means:

- (a) in relation to a participating jurisdiction other than the Australian Capital Territory—an authority exercising, in relation to the police force of that jurisdiction, functions corresponding to those of the Commissioner and any other authority prescribed by the regulations; or
- (b) in relation to the Australian Capital Territory—the Commissioner and any other authority prescribed by the regulations.

corresponding law means a law that:

- (a) relates to the carrying out of forensic procedures and DNA databases; and
- (b) either:
 - (i) substantially corresponds to this Part; or
 - (ii) is prescribed by the regulations for the purposes of this definition.

participating jurisdiction means a State or Territory in which there is a corresponding law in force.

responsible Minister of a participating jurisdiction means a Minister of that jurisdiction who is responsible for administration of a corresponding law.

23YUB Registration of orders

- (1) The Minister may enter into arrangements with the responsible Ministers of the participating jurisdictions for the establishment and maintenance, in one or more of those jurisdictions, of a register of orders for the carrying out of forensic procedures made under this Part or corresponding laws of participating jurisdictions.

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- (2) An order is registered when a copy of the order (being a copy certified by the person who made it) is registered in accordance with the law of the participating jurisdiction in which the register is kept.
- (3) An application for registration of an order, or for cancellation of registration of an order, may be made by an appropriate authority.

23YUC Carrying out of registered orders

- (1) A person is authorised to carry out the forensic procedure authorised by an order that is registered in accordance with an arrangement referred to in subsection 23YUB(1) anywhere in the Commonwealth. The person is authorised to carry out the procedure in accordance with Division 6 and not otherwise.
- (2) A constable, or other person assisting a constable in accordance with this Part or a corresponding law of a participating jurisdiction, is not compelled by this Part, or an arrangement referred to in subsection 23YUB(1), to execute an order registered under such an arrangement.

23YUD Database information

- (1) The Minister may, on behalf of the Commonwealth, enter into arrangements with a responsible Minister of a participating jurisdiction under which:
 - (a) information from the Commonwealth DNA database system is to be transmitted to the appropriate authority in the participating jurisdiction; and
 - (b) information from the State/Territory DNA database system of the participating jurisdiction is to be transmitted to the Commissioner.

These arrangements may deal with keeping, and otherwise managing, such information. Subject to subsection (1B), these arrangements may also deal with using such information.

- (1A) CrimTrac may, on behalf of the Commonwealth, enter into an arrangement with a participating jurisdiction in relation to:
 - (a) transmission of information to or from the Commonwealth DNA database system, or any State/Territory DNA database system; or

- (b) keeping, and otherwise managing, such information; or
 - (c) subject to subsection (1B), using such information.
- (1AA) Subject to subsection (1B), an arrangement with a participating jurisdiction under subsection (1A) may deal with:
- (a) CrimTrac comparing information transmitted in accordance with that arrangement with other information on NCIDD; and
 - (b) CrimTrac identifying matches that are found because of such comparisons and CrimTrac transmitting information arising from such matches to that participating jurisdiction.
- (1AB) Subsection (1AA) does not limit subsection (1A).
- (1B) Information that is transmitted under this section must not be used except for the purpose of:
- (a) the investigation of a matter relating to the participating jurisdiction, or proceedings in respect of that matter; or
 - (b) the investigation of a matter relating to the Commonwealth, or proceedings in respect of that matter.
- (2) Information that is transmitted under this section must not be recorded, or maintained in any database of information that may be used to discover the identity of a person or to obtain information about an identifiable person at any time after this Part or a corresponding law of a participating jurisdiction requires the forensic material to which it relates to be destroyed.
- (3) In this section:

CrimTrac means the CrimTrac Agency, established as an Executive Agency by the Governor-General by order under section 65 of the *Public Service Act 1999*.

investigation of a matter means:

- (a) in relation to a participating jurisdiction:
 - (i) an investigation of an offence against the law of that jurisdiction; or
 - (ii) an investigation of a missing person; or
 - (iii) an investigation for the purpose of identifying a deceased person; or

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- (b) in relation to the Commonwealth:
 - (i) an investigation of an offence against the law of the Commonwealth; or
 - (ii) an investigation of a missing person; or
 - (iii) an investigation for the purpose of identifying a deceased person.

Division 11A—Operation of this Part in relation to certain incidents

23YUE Definitions

In this Division:

incident includes a series of incidents.

permitted purpose means either or both of the following:

- (a) the purpose of identifying an unidentified person who died in or as a result of an incident in relation to which this Division applies;
- (b) the purpose of conducting a criminal investigation in relation to such an incident.

23YUF Application of this Division

- (1) This Division applies in relation to the following incidents:
 - (a) the bombings that occurred in Bali, Indonesia on 12 October 2002 (local time);
 - (b) any incident that the Minister determines, in writing, to be an incident in relation to which this Division applies.
- (2) Before making a determination under paragraph (1)(b), the Minister must be satisfied that:
 - (a) if the determination would relate to an incident occurring wholly outside Australia and Norfolk Island—one or more Australian citizens or Australian residents have died in or as a result of the incident; and
 - (b) it is appropriate in the circumstances for this Division to apply in relation to the incident.
- (2A) The Minister must not make a determination under paragraph (1)(b) relating to an incident occurring wholly within Australia or Norfolk Island unless:
 - (a) the Minister suspects on reasonable grounds that the incident involves the commission of:
 - (i) an offence against a law of the Commonwealth; or
 - (ii) a State offence that has a federal aspect; or

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- (iii) an offence against a law of a Territory; or
 - (b) the Minister suspects on reasonable grounds that victims of the incident are persons of a kind with respect to whom the Commonwealth Parliament has power to make laws; or
 - (c) the Minister is satisfied that the incident is or has created a national emergency.
- (2B) Without limiting paragraph (2A)(b), the reference in that paragraph to persons of a kind with respect to whom the Commonwealth Parliament has power to make laws includes references to the following:
- (a) aliens;
 - (b) persons receiving pensions, benefits or allowances from the Commonwealth;
 - (c) members of the Australian Defence Force;
 - (d) persons employed by, or holding an office in, the Commonwealth;
 - (e) residents of a Territory.
- (3) A determination under paragraph (1)(b) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

23YUG Use of information on DNA database systems

- (1) Despite section 23YDAE, a person may access information stored on the Commonwealth DNA database system or NCIDD if:
 - (a) the access is for the purpose of forensic comparison under a law of a State or Territory relating to forensic procedures and DNA databases; and
 - (b) the forensic comparison is for a permitted purpose.
- (2) Despite any law of a State or Territory relating to forensic procedures and DNA databases, a person may access information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system if:
 - (a) the access is for the purpose of forensic comparison under this Part; and
 - (b) the forensic comparison is for a permitted purpose.

- (3) Despite section 23YDAE or any law of a State or Territory relating to forensic procedures and DNA databases, a person may access information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system if the access is for the purpose of disclosing that information under section 23YUI.

23YUH Permissible matching of DNA profiles

- (1) Despite section 23YDAF, a person may match a DNA profile on the unknown deceased persons index of the Commonwealth DNA database system with another DNA profile on that index if the matching is for a permitted purpose.
- (2) Despite any law of a State or Territory relating to forensic procedures and DNA databases, a person may match a DNA profile on the unknown deceased persons index of a State/Territory DNA database system with another DNA profile on that index, or with another DNA profile on the unknown deceased persons index of the Commonwealth DNA database system, if the matching is for a permitted purpose.

23YUI Disclosure of information

- (1) Despite section 23YO, or any law of a State or Territory relating to forensic procedures and DNA databases, a person may disclose information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system if:
- (a) the disclosure is to:
 - (i) any law enforcement agency (within the meaning of the *Australian Crime Commission Act 2002*); or
 - (ii) a foreign law enforcement agency (within the meaning of that Act); or
 - (iii) the International Criminal Police Organisation; or
 - (iv) any other agency or body of the Commonwealth, a State or a Territory, or of a foreign country, prescribed by the regulations; and
 - (b) the information is relevant to the activities of that agency or body; and
 - (c) the disclosure is for a permitted purpose.

Section 23YUJ

- (2) Despite section 23YO, or any law of a State or Territory relating to forensic procedures and DNA databases, a person may disclose information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system if:
- (a) the information concerns the result of a match of an unknown deceased person's DNA profile with a missing person's DNA profile; and
 - (b) the disclosure is made to a relative, guardian, spouse, de facto partner or friend of the deceased person.

23YUJ This Division does not restrict operation of this Part

This Division does not limit the circumstances in which a person may:

- (a) access information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system; or
- (b) match a DNA profile on an index of the Commonwealth DNA database system or a State/Territory DNA database system; or
- (c) disclose information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system;

under this Part.

Note: See section 23YU on the effect of this Part on other laws.

23YUK Review of operation of this Division

- (1) The Minister must cause an independent review of the operation of this Division to be undertaken as soon as possible after the first anniversary of the commencement of item 1 of Schedule 1 to the *Crimes Amendment Act 2002* referred to in subsection 2(1) of that Act.
- (2) A person who undertakes the review must give the Minister a written report of the review.
- (3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

(4) In this section:

independent review means a review undertaken by persons who:

- (a) in the Minister's opinion, possess appropriate qualifications to undertake the review; and
- (b) include a nominee of the Attorney-General, a nominee of the Commissioner of the Australian Federal Police, a nominee of the Director of Public Prosecutions, a nominee of the Ombudsman and a nominee of the Privacy Commissioner.

Division 11B—Concurrent operation of State and Territory laws

23YUL Concurrent operation of State and Territory laws

The application of this Part in relation to State offences that have a federal aspect is not intended to limit or exclude the concurrent operation of any law of a State or of the Australian Capital Territory.

Note 1: Subsection 3(1) defines *State* to include the Northern Territory.

Note 2: Section 3AA has the effect that an offence against a law of the Australian Capital Territory is a State offence that has a federal aspect.

Division 12—Review of operation of Part

23YV Review of operation of Part

- (1) The Minister must cause an independent review of:
 - (a) the operation of this Part; and
 - (b) the extent to which the forensic procedures permitted by this Part have contributed to the conviction of suspects; and
 - (ba) the effectiveness of independent oversight and accountability mechanisms for the DNA database system; and
 - (bb) any disparities between the legislative and regulatory regimes of the Commonwealth and participating jurisdictions for the collection and use of DNA evidence; and
 - (bc) any issues relating to privacy or civil liberties arising from forensic procedures permitted by this part; and
 - (c) any other matter in relation to this Part which, in the Minister's view, should be considered;

to be undertaken as soon as possible after the first anniversary of the commencement of Schedule 1 to the *Crimes Amendment (Forensic Procedures) Act 2001* referred to in subsection 2(2) of that Act.

- (2) A person who undertakes the review must give the Minister a written report of the review.
- (3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.
- (4) In this section:

independent review means a review undertaken by persons who:

- (a) in the Minister's opinion, possess appropriate qualifications to undertake the review; and
- (b) include a nominee of the Attorney-General, a nominee of the Commissioner of the Australian Federal Police, a nominee of the Director of Public Prosecutions, a nominee of the Ombudsman and a nominee of the Privacy Commissioner.

Section 23YV

- (5) If a written report tabled under subsection (3) identifies inadequacies in respect of the matters referred to in subsection (1):
 - (a) the Minister must cause persons to commence, no later than 1 November 2009, a further independent review to ascertain whether the inadequacies have been effectively dealt with; and
 - (b) subsections (2), (3) and (4) apply in relation to the report of that further review in the same manner as they apply in respect of the report of the original review.

Part IE—Forfeiture of child pornography material and child abuse material

Division 1—Things this Part applies to

23ZA Application

This Part applies to a thing (the *forfeitable thing*) that is:

- (a) child abuse material; or
- (b) child pornography material; or
- (c) any of the following that contains child abuse material or child pornography material:
 - (i) a computer;
 - (ii) a data storage device;
 - (iii) another piece of electronic equipment.

Division 2—Forfeiture by operation of law after notice is given

23ZB Forfeiture of material by operation of law

Application

- (1) This section applies if a constable reasonably believes that the forfeitable thing is derived from, or was used in connection with, the commission of a Commonwealth child sex offence.

Power to give forfeiture notice

- (2) The constable may give a notice (the *forfeiture notice*) described in subsection (3) to:
- (a) a person who owns the forfeitable thing (either alone or with other persons); or
 - (b) if the constable is unable, after reasonable inquiry, to identify such a person:
 - (i) the person who possesses the thing; or
 - (ii) if the thing has been seized under a law of the Commonwealth, a State, a Territory or a foreign country—the person who would possess it apart from that seizure.

Content of forfeiture notice

- (3) The forfeiture notice is a notice that:
- (a) identifies the forfeitable thing; and
 - (b) states the constable's belief that the thing is derived from, or was used in connection with, the commission of a Commonwealth child sex offence; and
 - (c) states that the thing will be forfeited to the Commonwealth 30 days after the notice is given, unless any of the following persons object to the forfeiture by written notice given before the end of that period to the head of the police force that includes the constable:
 - (i) a person who owns the thing (either alone or with other persons);

- (ii) a person who has a right to possess the thing; and
- (d) explains the circumstances in which, under section 23ZC, a person may be given a copy of parts of the thing, or of data contained in the thing, on request to the head of the police force made within 30 days after the notice is given; and
- (e) explains the effect of forfeiture of the thing; and
- (f) explains the circumstances in which compensation is payable in connection with forfeiture of the thing; and
- (g) requests a person claiming compensation for forfeiture of the thing to notify the head of the police force of the claim.

Giving copy of forfeiture notice to others affected

- (4) If the constable gives the forfeiture notice to a person described in subsection (2), the constable may also give a copy of the notice to anyone whom the constable reasonably believes will be directly or indirectly affected by the proposed forfeiture of the forfeitable thing.

Effect of giving forfeiture notice

- (5) If there is not an objection described in paragraph (3)(c), the forfeitable thing is forfeited to the Commonwealth (by force of this subsection) at the end of the period described in that paragraph.
- (6) If there is an objection described in paragraph (3)(c) but the head of the police force that includes the constable considers that the forfeitable thing should be forfeited to the Commonwealth despite the objection:
 - (a) the head of the police force must instruct the Director of Public Prosecutions to apply for an order under section 23ZD for the forfeiture of the thing; and
 - (b) the Director must make the application.

Objection or lack of one does not affect prosecution

- (7) Evidence of the fact that a person described in paragraph (3)(c) objected or did not object as described in that paragraph is not admissible against the person in a prosecution of the person for a Commonwealth child sex offence.

Section 23ZC

23ZC Providing copies of innocuous parts of material to be forfeited

- (1) This section applies if:
 - (a) the forfeitable thing is identified in a forfeiture notice given by a constable; and
 - (b) less than 30 days after the notice is given, a person who was given the notice or who would be directly or indirectly affected by the proposed forfeiture of the thing gives a written request to the head of the police force that includes the constable; and
 - (c) the request is for the person to be given a copy of parts of the thing, or of data contained in the thing, that:
 - (i) are specified in the request clearly enough to enable the parts or data to be identified readily; and
 - (ii) are not child abuse material or child pornography material.
- (2) The head of the police force must comply with the request if he or she is satisfied that it is reasonably practicable to do so.
- (3) However, the head of the police force need not comply with the request if he or she reasonably believes:
 - (a) that to do so might endanger the safety of anyone or prejudice an investigation or prosecution; or
 - (b) that possession by the person of the copy could constitute an offence against a law of the Commonwealth, a State or a Territory.
- (4) If:
 - (a) the head of the police force complies with the request; and
 - (b) a court convicts the person of a Commonwealth child sex offence and is satisfied on the balance of probabilities that the forfeitable thing is derived from, or was used in connection with, the commission of the offence;the court may order the person to pay the Commonwealth, State or Territory whose police force incurred costs in complying with the request those costs.

Division 3—Forfeiture by court order on application

23ZD Forfeiture of material by court order on application

Court to order forfeiture on application if offence committed

- (1) If, on application by the Director of Public Prosecutions to a court of a State or Territory, the court is satisfied that a Commonwealth child sex offence has been committed or that a person is or has been convicted of a Commonwealth child sex offence (by the court or another court), the court must order the forfeiture to the Commonwealth of all the things that the court is satisfied:
 - (a) are forfeitable things derived from, or used in connection with, the commission of the offence; and
 - (b) have not already become property of the Commonwealth.

Note 1: It does not matter whether the Director of Public Prosecutions makes the application on his or her own initiative or because of section 23ZB.

Note 2: It does not matter whether the court is satisfied in the course of criminal proceedings or civil proceedings that the Commonwealth child sex offence has been committed.

Notice of application

- (2) The Director of Public Prosecutions must give written notice of the application to anyone:
 - (a) who claims to own, or have a right to possess, a thing covered by the application; or
 - (b) whom the Director reasonably believes would be directly or indirectly affected by the proposed forfeiture.

Interim orders

- (3) At any time after the application is made to the court, it may make any interim orders it considers appropriate (such as orders relating to the delivery or retention of things pending the court's decision on the application, and orders relating to the making and provision of copies of things).

Section 23ZD

Circumstances that do not prevent court ordering forfeiture

- (4) An order under subsection (1):
- (a) may be made even if a person entitled to be given notice of the application fails to appear at the hearing of the application; and
 - (b) need not be based on a finding as to the commission of a particular Commonwealth child sex offence; and
 - (c) can be based on a finding that some such offence was committed; and
 - (d) need not be based on a finding that a particular person committed a Commonwealth child sex offence.

Court may order compensation for forfeiture

- (5) The court may order the Commonwealth to pay a specified reasonable amount of compensation to a person who owns, has a right to possess or has other property in a thing whose forfeiture the court orders if the thing is a computer, data storage device or other electronic equipment and the court is satisfied that:
- (a) the person has appeared at the hearing of the application; and
 - (b) the person did not commit, is not and has not been convicted (by the court or another court) of, and has not been found by another court in civil proceedings to have committed, the Commonwealth child sex offence; and
 - (c) the person is not the subject of proceedings in another court relating to the Commonwealth child sex offence and has not been the subject of such proceedings in connection with which an appeal may still be lodged as of right; and
 - (d) the person is not the subject of an investigation into a Commonwealth child sex offence of which the thing provides evidence.

Standard of proof for forfeiture and compensation orders

- (6) The standard of proof for subsections (1) and (5) is the balance of probabilities.

Division 4—Provisions relating to forfeiture under this Part generally

23ZE Effect of forfeiture under this Part

- (1) This section applies if a thing is forfeited to the Commonwealth under this Part.
- (2) When the thing is forfeited it becomes the property of the Commonwealth.
- (3) A constable may, without warrant, seize the thing.
- (4) The Commissioner may deal with the thing in any way he or she considers appropriate (including by destroying the thing).
- (5) However, if the thing is in the custody of a constable who is a member of a police force of a State or Territory, the head of the police force may deal with the thing in any way he or she considers appropriate (including by destroying the thing).
- (6) Subsections (3), (4) and (5) have effect despite section 9.

23ZF Compensation for forfeiture of electronic equipment etc.

- (1) This section applies to a person if:
 - (a) a thing that is a computer, data storage device or other electronic equipment is forfeited under this Part; and
 - (b) the person owned, had a right to possess or had other property in the thing immediately before the forfeiture.
- (2) The Commonwealth is liable to pay the person a reasonable amount of compensation for the forfeiture.
- (3) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction of a State or Territory for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (4) However, the court is not to determine an amount of compensation for the person while:

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Division 4 Provisions relating to forfeiture under this Part generally

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- (a) the person is the subject of an investigation into a Commonwealth child sex offence of which the thing provides evidence; or
 - (b) the person is the subject of proceedings (other than those under subsection (3)) relating to a Commonwealth child sex offence from which the thing was allegedly derived or in connection with which the thing was allegedly used; or
 - (c) an appeal may be lodged as of right in relation to proceedings covered by paragraph (b).
- (5) Subsection (2) does not apply if the person is or has been convicted of, or found by a court in civil proceedings (including proceedings under subsection (3)) to have committed, a Commonwealth child sex offence to which the forfeiture relates.

23ZG Delegation by head of police force

The head of a police force (including the Commissioner) may, by writing, delegate to a constable who is a member of the force all or any of the head's powers, functions and duties under this Part.

Part II—Offences against the Government

24AA Treachery

- (1) A person shall not:
 - (a) do any act or thing with intent:
 - (i) to overthrow the Constitution of the Commonwealth by revolution or sabotage; or
 - (ii) to overthrow by force or violence the established government of the Commonwealth, of a State or of a proclaimed country; or
 - (b) within the Commonwealth or a Territory not forming part of the Commonwealth:
 - (i) levy war, or do any act preparatory to levying war, against a proclaimed country;
 - (ii) assist by any means whatever, with intent to assist, a proclaimed enemy of a proclaimed country; or
 - (iii) instigate a person to make an armed invasion of a proclaimed country.
- (2) Where a part of the Defence Force is on, or is proceeding to, service outside the Commonwealth and the Territories not forming part of the Commonwealth, a person shall not assist by any means whatever, with intent to assist, any persons:
 - (a) against whom that part of the Defence Force, or a force that includes that part of the Defence Force is or is likely to be opposed; and
 - (b) who are specified, or included in a class of persons specified, by proclamation to be persons in respect of whom, or a class of persons in respect of which, this subsection applies.
- (3) A person who contravenes a provision of this section shall be guilty of an indictable offence, called treachery.

Penalty: Imprisonment for life.

Section 24AB

(4) In this section:

proclaimed country means a country specified by proclamation made for the purpose of this definition to be a proclaimed country, and includes any colony, overseas territory or protectorate of that country, or any territory for the international relations of which that country is responsible, which is a colony, overseas territory, protectorate or territory to which the proclamation is expressed to extend.

proclaimed enemy, in relation to a proclaimed country, means an enemy:

- (a) of and at war with a proclaimed country, whether or not the existence of a state of war has been declared; and
- (b) specified by proclamation made for the purpose of this definition to be an enemy of and at war with that country.

(5) A proclamation shall not be made for the purpose of the definition of *proclaimed country*, or for the purpose of the definition of *proclaimed enemy*, in subsection (4) except in pursuance of a resolution of each House of the Parliament passed within the preceding period of 21 days.

24AB Sabotage

(1) In this section:

act of sabotage means the destruction, damage or impairment, with the intention of prejudicing the safety or defence of the Commonwealth, of any article:

- (a) that is used, or intended to be used, by the Defence Force or a part of the Defence Force or is used, or intended to be used, in the Commonwealth or a Territory not forming part of the Commonwealth, by the armed forces of a country that is a proclaimed country for the purposes of section 24AA;
- (b) that is used, or intended to be used, in or in connexion with the manufacture, investigation or testing of weapons or apparatus of war;
- (c) that is used, or intended to be used, for any purpose that relates directly to the defence of the Commonwealth; or
- (d) that is in or forms part of a place that is a prohibited place within the meaning of section 80.

article includes any thing, substance or material.

- (2) A person who:
- (a) carries out an act of sabotage; or
 - (b) has in his or her possession any article that is capable of use, and which he or she intends for use, in carrying out an act of sabotage;
- shall be guilty of an indictable offence.
- Penalty: Imprisonment for 15 years.
- (3) On a prosecution under this section it is not necessary to show that the accused person was guilty of a particular act tending to show an intention to prejudice the safety or defence of the Commonwealth and, notwithstanding that such an act is not proved against him or her, he or she may be convicted if, from the circumstances of the case, from his or her conduct or from his or her known character as proved, it appears that his or her intention was to prejudice the safety or defence of the Commonwealth.
- (4) On a prosecution under this section, evidence is not admissible by virtue of subsection (3) if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that that evidence:
- (a) would not tend to show that the defendant intended to prejudice the safety or defence of the Commonwealth; or
 - (b) would, having regard to all the circumstances of the case and notwithstanding subsection (5), prejudice the fair trial of the defendant.
- (5) If evidence referred to in subsection (4) is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the defendant intended to prejudice the safety or defence of the Commonwealth and must be disregarded by the jury in relation to any other question.

24AC Institution of prosecutions

- (1) Proceedings for the commitment for trial of a person, or for the summary conviction of a person, in respect of an offence against section 24AA or 24AB shall not be instituted except by the
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Section 24F

Attorney-General or with the consent of the Attorney-General or of a person thereto authorized in writing by the Attorney-General.

(2) Notwithstanding that consent has not been obtained as provided by subsection (1):

(a) a person may be arrested for an offence referred to in that subsection; or

(b) a warrant for the arrest of a person for such an offence may be issued and executed;

and he or she may be charged, and may be remanded in custody or on bail, but:

(c) no further proceedings shall be taken until that consent has been obtained; and

(d) he or she shall be discharged if proceedings are not continued within a reasonable time.

24F Certain acts done in good faith not unlawful

(1) Nothing in the preceding provisions of this Part makes it unlawful for a person:

(a) to endeavour in good faith to show that the Sovereign, the Governor-General, the Governor of a State, the Administrator of a Territory, or the advisers of any of them, or the persons responsible for the government of another country, has or have been, or is or are, mistaken in any of his, her or their counsels, policies or actions;

(b) to point out in good faith errors or defects in the government, the constitution, the legislation or the administration of justice of or in the Commonwealth, a State, a Territory or another country, with a view to the reformation of those errors or defects;

(c) to excite in good faith another person to attempt to procure by lawful means the alteration of any matter established by law in the Commonwealth, a State, a Territory or another country;

(d) to point out in good faith, in order to bring about their removal, any matters that are producing, or have a tendency to produce, feelings of ill-will or hostility between different classes of persons; or

(e) to do anything in good faith in connexion with an industrial dispute or an industrial matter.

- (2) For the purpose of subsection (1), an act or thing done:
- (a) for a purpose intended to be prejudicial to the safety or defence of the Commonwealth;
 - (b) with intent to assist an enemy:
 - (i) at war with the Commonwealth; and
 - (ii) specified by proclamation made for the purpose of paragraph 80.1(1)(e) of the *Criminal Code* to be an enemy at war with the Commonwealth;
 - (ba) with intent to assist:
 - (i) another country; or
 - (ii) an organisation (within the meaning of section 100.1 of the *Criminal Code*);
that is engaged in armed hostilities against the Australian Defence Force;
 - (c) with intent to assist a proclaimed enemy, as defined by subsection 24AA(4) of this Act, of a proclaimed country as so defined;
 - (d) with intent to assist persons specified in paragraphs 24AA(2)(a) and (b) of this Act; or
 - (e) with the intention of causing violence or creating public disorder or a public disturbance;
- is not an act or thing done in good faith.

25 Inciting mutiny

- (1) Any person who intentionally attempts:
- (a) to seduce any person serving in the Queen's Forces from his or her duty and allegiance; or
 - (b) to incite any person serving in the Queen's Forces to commit an act of mutiny, or any traitorous or mutinous act; or
 - (c) to incite any person serving in the Queen's Forces to make or endeavour to make a mutinous assembly;
- shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

- (2) In this section the expression "person serving in the Queen's Forces" includes any person serving in an arm of the Defence Force of Australia or in the armed forces of the United Kingdom or any British possession.

26 Assisting prisoners of war to escape

A person who intentionally aids an alien enemy who is a prisoner of war to escape, or in his or her escape, from a prison or place of confinement, or from the Commonwealth or a Territory not forming part of the Commonwealth, shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

27 Unlawful drilling

(1) Any person who:

- (a) in contravention of the directions of a proclamation by the Governor-General in that behalf, trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions; or
- (b) is present at any meeting or assembly of persons, held in contravention of the directions of a proclamation by the Governor-General, for the purpose of there training or drilling any other person to the use of arms or the practice of military exercises, movements, or evolutions;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

(2) Any person who, at any meeting or assembly held in contravention of the directions of a proclamation by the Governor-General in that behalf, is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, shall be guilty of an indictable offence.

Penalty: Imprisonment for 2 years.

28 Interfering with political liberty

Any person who, by violence or by threats or intimidation of any kind, hinders or interferes with the free exercise or performance, by any other person, of any political right or duty, shall be guilty of an offence.

Penalty: Imprisonment for 3 years.

29 Destroying or damaging Commonwealth property

- (1) Any person who intentionally destroys or damages any property, whether real or personal, belonging to the Commonwealth or to any public authority under the Commonwealth, shall be guilty of an offence.

Penalty: Imprisonment for 10 years.

- (2) For the purposes of an offence against subsection (1), absolute liability applies to the physical element of circumstance of the offence, that the property is property belonging to the Commonwealth or to any public authority under the Commonwealth.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

Part IIA—Protection of the Constitution and of public and other services

30A Unlawful associations

- (1) The following are hereby declared to be unlawful associations, namely:
- (a) any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages:
 - (i) the overthrow of the Constitution of the Commonwealth by revolution or sabotage;
 - (ii) the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilized country or of organized government; or
 - (iii) the destruction or injury of property of the Commonwealth or of property used in trade or commerce with other countries or among the States; or which is, or purports to be, affiliated with any organization which advocates or encourages any of the doctrines or practices specified in this paragraph;
 - (b) any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages the doing of any act having or purporting to have as an object the carrying out of a seditious intention (see subsection (3)).
- (1A) Without limiting the effect of the provisions of subsection (1), any body of persons, incorporated or unincorporated, which is, in pursuance of section 30AA, declared by the Federal Court of Australia to be an unlawful association, shall be deemed to be an unlawful association for the purposes of this Act.
- (2) Any branch or committee of an unlawful association, and any institution or school conducted by or under the authority or apparent authority of an unlawful association, shall, for all the purposes of this Act, be deemed to be an unlawful association.

(3) In this section:

sedition intention means an intention to use force or violence to effect any of the following purposes:

- (a) to bring the Sovereign into hatred or contempt;
- (b) to urge disaffection against the following:
 - (i) the Constitution;
 - (ii) the Government of the Commonwealth;
 - (iii) either House of the Parliament;
- (c) to urge another person to attempt to procure a change, otherwise than by lawful means, to any matter established by law of the Commonwealth;
- (d) to promote feelings of ill-will or hostility between different groups so as to threaten the peace, order and good government of the Commonwealth.

30AA Application for declaration as to unlawful association

- (1) The Attorney-General may apply to the Federal Court of Australia for an order calling upon any body of persons, incorporated or unincorporated, to show cause why it should not be declared to be an unlawful association.
- (2) An application under subsection (1):
 - (a) shall be made on the ground that the body of persons to which it relates is one which is described in subsection 30A(1); and
 - (b) shall be by summons which may contain averments setting out the facts relied upon in support of the application.
- (4) Service of a summons under this section upon the body of persons specified in the summons may be effected by publication of the summons in the *Gazette* and in a daily newspaper circulating in the city or town in which the head office in Australia of that body is stated in the summons to be situate, but the Court may order such further or other service as it thinks fit.
- (5) Any officer or member of the body of persons specified in any summons issued under this section may appear on behalf of that body to show cause.

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- (7) If cause to the contrary is not shown to the satisfaction of the Court, it may make an order declaring the respondent body of persons to be an unlawful association.
- (8) Any person who is an interested person in relation to any declaration made under this section may, within 14 days after the making of any such declaration, apply to the Federal Court of Australia for the setting aside of the order.
- (9) Any application made under subsection (8) shall be heard by a Full Court of the Federal Court of Australia, and upon the hearing of the application the Court may affirm or annul the order.

30AB Attorney-General may require information

- (1) If the Attorney-General believes that any person has in his or her possession any information or documents relating to an unlawful association, he or she may require the person, or, in the case of a corporation, any person holding a specified office in the corporation:
 - (a) to answer questions;
 - (b) to furnish information; and
 - (c) allow the inspection of documents belonging to, or in the possession of, that person or that corporation, as the case may be;relating to:
 - (d) any money, property or funds belonging to or held by or on behalf of an unlawful association, or as to which there is reasonable cause to believe that they belong to or are held by or on behalf of an unlawful association;
 - (e) any payments made directly or indirectly by, to, or on behalf of, an unlawful association, or as to which there is reasonable cause to believe that they are so made; or
 - (f) any transactions to which an unlawful association is or is reasonably believed to be a party.
- (2) Any person failing or neglecting to answer questions, furnish information or produce documents as required in pursuance of this section, shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

30B Officers of unlawful associations

Any person over the age of 18 years who is a member of an unlawful association, and any person who occupies or acts in any office or position in or of an unlawful association, or who acts as a representative of an unlawful association, or who acts as a teacher in any institution or school conducted by or under the authority or apparent authority of an unlawful association, shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

30C Advocating or inciting to crime

Any person who by speech or writing advocates or encourages:

- (a) the overthrow of the Constitution of the Commonwealth by revolution or sabotage;
- (b) the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilized country or of organized government; or
- (c) the destruction or injury of property of the Commonwealth or of property used in trade or commerce with other countries or among the States;

shall be guilty of an offence and shall be liable on conviction to imprisonment for any period not exceeding 2 years.

30D Giving or soliciting contributions for unlawful associations

(1) Any person who:

- (a) gives or contributes money or goods to an unlawful association; or
- (b) receives or solicits subscriptions or contributions of money or goods for an unlawful association;

shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

(2) For the purposes of this section the printer and the publisher of a newspaper or periodical which contains any solicitation of subscriptions or contributions of money or goods for an unlawful association, or any notification or indication as to places where or persons to whom payment or delivery may be made of

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subscriptions or contributions of money or goods for an unlawful association, shall be deemed to solicit subscriptions or contributions of money or goods for an unlawful association.

30E Books etc. issued by unlawful association not transmissible by post

- (1) No book, periodical, pamphlet, handbill, poster or newspaper issued by or on behalf or in the interests of any unlawful association shall:
 - (a) if posted in Australia, be transmitted through the post; or
 - (b) in the case of a newspaper, be registered as a newspaper under the provisions of the *Postal Services Act 1975*.
- (2) Any newspaper registered under that Act, which is issued by or on behalf or in the interests of any unlawful association, shall be removed from the register.
- (3) Any book, periodical, pamphlet, handbill, poster or newspaper posted in Australia, the transmission of which would be a contravention of this Act, shall be forfeited to the Commonwealth and shall be destroyed or disposed of as provided in the regulations in force under the *Postal Services Act 1975*.

30F Prohibition of sale of books etc. issued by unlawful association

Any person who intentionally prints, publishes, sells or exposes for sale or who intentionally circulates or distributes any book, periodical, pamphlet, handbill, poster or newspaper for or in the interests of or issued by any unlawful association shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

30FA Imprints on publications

- (1) The imprint appearing upon any book, periodical, pamphlet, handbill, poster or newspaper shall, in any proceedings under this Part, be prima facie evidence that the book, periodical, pamphlet, handbill, poster or newspaper was printed or published by or on behalf of, or in the interests of, the person or body of persons specified in the imprint.

- (2) For the purposes of this section, *imprint* means a statement of the name and address of the printer or of the publisher of the book, periodical, pamphlet, handbill, poster or newspaper with or without a description of the place where it is printed.

30FC Owner etc. of building permitting meeting of unlawful association

Any person who, being the owner, lessee, agent or superintendent of any building, room, premises or place, intentionally permits therein any meeting of an unlawful association or of any branch or committee thereof, shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

30FD Disqualification from voting of member of unlawful association

Any person who, at the date of any declaration made by a court under this Part declaring any body of persons to be an unlawful association, is a member of the Committee or Executive of that association, shall not for a period of 7 years from that date be entitled to have his or her name placed on or retained on any roll of electors for the Senate or House of Representatives, or to vote at any Senate election or House of Representatives election unless so entitled under section 41 of the Constitution.

30G Forfeiture of property held by an unlawful association

All goods and chattels belonging to an unlawful association, or held by any person for or on behalf of an unlawful association, and all books, periodicals, pamphlets, handbills, posters or newspapers issued by or on behalf of, or in the interests of, an unlawful association shall be forfeited to the Commonwealth.

30H Proof of membership of an association

In any prosecution under this Act, proof that the defendant has, at any time since the commencement of this section:

- (a) been a member of an association;
- (b) attended a meeting of an association;

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(c) spoken publicly in advocacy of an association or its objects;
or

(d) distributed literature of an association;

shall, in the absence of proof to the contrary, be evidence that at all times material to the case he or she was a member of the association.

30J Industrial disturbances, lock-outs and strikes

(1) If at any time the Governor-General is of opinion that there exists in Australia a serious industrial disturbance prejudicing or threatening trade or commerce with other countries or among the States, he or she may make a Proclamation to that effect, which Proclamation shall be and remain in operation for the purposes of this section until it is revoked.

(2) Any person who, during the operation of such Proclamation, takes part in or continues, or incites to, urges, aids or encourages the taking part in, or continuance of, a lock-out or strike:

(a) in relation to employment in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States; or

(b) in relation to employment in, or in connexion with, the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth;

shall be guilty of an offence, and shall be liable on conviction to imprisonment for any period not exceeding one year.

(3) For the purposes of this section:

employee includes any person whose usual occupation is as an employee.

employer includes any person whose usual occupation is as an employer.

lock-out includes the closing of a place or part of a place of employment, if the closing is unreasonable, and the total or partial refusal of employers, acting in combination, to give work, if the refusal is unreasonable, or the total or partial suspension of work by an employer, if the suspension is unreasonable, with a view to compel his or her employees, or to aid another employer in

compelling his or her employees, to accept any term or condition of employment.

strike includes the total or partial cessation of work by employees, acting in combination, if the cessation is unreasonable, as a means of enforcing compliance with demands made by them or by other employees on employers, and the total or partial refusal of employees, acting in combination, to accept work, if the refusal is unreasonable, and also includes job control.

30K Obstructing or hindering the performance of services

Whoever, by violence to the person or property of another person, or by spoken or written threat or intimidation of any kind to whomsoever directed, or, without reasonable cause or excuse, by boycott or threat of boycott of person or property:

- (b) compels or induces any person employed in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth to surrender or depart from his or her employment;
- (c) prevents any person from offering or accepting employment in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth;
- (d) obstructs or hinders the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States;
- (e) compels or induces any person employed in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States to surrender or depart from his or her employment; or
- (f) prevents any person from offering or accepting employment in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States;

shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

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30R Books etc. taken to have been issued by associations

- (5) Any book, periodical, pamphlet, handbill, poster or newspaper purporting to be issued by or on behalf of, or in the interests of, an association shall, unless the contrary is proved, be deemed to be so issued.

Part III—Offences relating to the administration of justice

31 Interpretation

In this Part, unless the contrary intention appears:

holder of a judicial office means the holder of a judicial office under the Commonwealth, or the holder of a judicial office acting in the exercise of federal jurisdiction, and includes an arbitrator or umpire under any law of the Commonwealth or of a Territory.

judicial proceeding means a proceeding in or before a federal court, court exercising federal jurisdiction or court of a Territory, and includes a proceeding before a body or person acting under the law of the Commonwealth, or of a Territory, in which evidence may be taken on oath.

34 Judge or magistrate acting oppressively or when interested

- (1) Any person who:
- (a) being a judge or magistrate and being required or authorized by law to admit any person accused of an offence against the law of the Commonwealth to bail, in abuse of his or her office, requires excessive and unreasonable bail; or
 - (b) being a judge or magistrate, intentionally and perversely exercises federal jurisdiction in any matter in which he or she has a personal interest;
- shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

- (2) Paragraph (1)(a) does not apply if the judge or magistrate has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

35 Giving false testimony

- (1) Any person who, in any judicial proceeding, or with the intention of instituting any judicial proceeding, intentionally gives false testimony touching any matter, material in that proceeding, shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

- (1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance of the offence, that the matter is material in the proceeding.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) For the purpose of this section it is immaterial whether the testimony was given on oath or not on oath, or was given orally or in writing, or whether the court or tribunal to which it was given was properly constituted or was held in the proper place, or whether the person who gave the testimony was a competent witness or not, or whether the testimony was admissible or not.

36 Fabricating evidence

Any person who, with intent to mislead any tribunal in any judicial proceeding, intentionally:

- (a) fabricates evidence; or
- (b) makes use of fabricated evidence;

shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

36A Intimidation of witnesses etc.

A person who:

- (a) threatens, intimidates or restrains;
- (b) uses violence to or inflicts an injury on;
- (c) causes or procures violence, damage, loss or disadvantage to;
or
- (d) causes or procures the punishment of;

a person for or on account of his or her having appeared, or being about to appear, as a witness in a judicial proceeding shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

37 Corruption of witnesses

Any person who:

- (a) gives, confers, or procures, or promises or offers to give, confer, procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon any agreement or understanding that any person called or to be called as a witness in any judicial proceeding shall give false testimony or withhold true testimony; or
- (b) does an act with the intention of inducing a person called or to be called as a witness in any judicial proceeding to give false testimony, or to withhold true testimony; or
- (c) asks, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or herself, or any other person, upon any agreement or understanding that any person shall as a witness in any judicial proceeding give false testimony or withhold true testimony;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

38 Deceiving witnesses

Any person who practices any fraud or deceit, or intentionally makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of that person as a witness, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

39 Destroying evidence

Any person who, knowing that any book, document, or other thing of any kind, is or may be required in evidence in a judicial proceeding, intentionally destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

40 Preventing witnesses from attending Court

A person who intentionally prevents another person who has been summoned to attend as a witness in a judicial proceeding from attending as a witness or from producing anything in evidence pursuant to the subpoena or summons shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

41 Conspiracy to bring false accusation

- (1) Any person who conspires with another to charge any person falsely or cause any person to be falsely charged with any offence against the law of the Commonwealth or of a Territory, shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

- (2) For a person to be guilty of an offence against subsection (1):
- (a) the person must have entered into an agreement with one or more other persons; and
 - (b) the person and at least one other party to the agreement must have intended that a person be charged falsely with an offence pursuant to the agreement; and
 - (c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.
- (3) A person may be found guilty of an offence against subsection (1) even if:
- (a) charging a person falsely pursuant to the agreement is impossible; or
 - (b) the only other party to the agreement is a body corporate; or
 - (c) each other party to the agreement is a person who is not criminally responsible; or
 - (d) subject to subsection (4), all other parties to the agreement have been acquitted of the offence.

- (4) A person cannot be found guilty of an offence against subsection (1) if:
 - (a) all other parties to the agreement have been acquitted of such an offence; and
 - (b) a finding of guilt would be inconsistent with their acquittal.
- (5) A person cannot be found guilty of an offence against subsection (1) if, before the commission of an overt act pursuant to the agreement, the person:
 - (a) withdrew from the agreement; and
 - (b) took all reasonable steps to prevent the false charging.
- (6) A court may dismiss a charge of an offence against subsection (1) if the court thinks that the interests of justice require the court to do so.
- (7) Section 11.1 of the *Criminal Code* does not apply to an offence against subsection (1).

42 Conspiracy to defeat justice

- (1) Any person who conspires with another to obstruct, prevent, pervert, or defeat, the course of justice in relation to the judicial power of the Commonwealth, shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

- (2) For the purposes of an offence against subsection (1), absolute liability applies to the physical element of circumstance of the offence, that the judicial power is of the Commonwealth.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

- (3) For a person to be guilty of an offence against subsection (1):
 - (a) the person must have entered into an agreement with one or more other persons; and
 - (b) the person and at least one other party to the agreement must have intended to obstruct, prevent, pervert or defeat the course of justice pursuant to the agreement; and
 - (c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.

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- (4) A person may be found guilty of an offence against subsection (1) even if:
- (a) obstructing, preventing, perverting or defeating the course of justice pursuant to the agreement is impossible; or
 - (b) the only other party to the agreement is a body corporate; or
 - (c) each other party to the agreement is a person who is not criminally responsible; or
 - (d) subject to subsection (5), all other parties to the agreement have been acquitted of the offence.
- (5) A person cannot be found guilty of an offence against subsection (1) if:
- (a) all other parties to the agreement have been acquitted of such an offence; and
 - (b) a finding of guilt would be inconsistent with their acquittal.
- (6) A person cannot be found guilty of an offence against subsection (1) if, before the commission of an overt act pursuant to the agreement, the person:
- (a) withdrew from the agreement; and
 - (b) took all reasonable steps to prevent the obstruction, prevention, perversion or defeat.
- (7) A court may dismiss a charge of an offence against subsection (1) if the court thinks that the interests of justice require the court to do so.
- (8) Section 11.1 of the *Criminal Code* does not apply to an offence against subsection (1).

43 Attempting to pervert justice

- (1) Any person who attempts, in any way not specially defined in this Act, to obstruct, prevent, pervert, or defeat, the course of justice in relation to the judicial power of the Commonwealth, shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

- (2) For the purposes of an offence against subsection (1), absolute liability applies to the physical element of circumstance of the offence, that the judicial power is of the Commonwealth.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

- (3) For the person to be guilty of an offence against subsection (1), the person's conduct must be more than merely preparatory to the commission of the offence. The question whether conduct is more than merely preparatory to the commission of the offence is one of fact.
- (4) A person may be found guilty of an offence against subsection (1) even if doing the thing attempted is impossible.

44 Compounding offences

Any person who asks receives or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or herself, or any other person, upon any agreement or understanding that he or she will compound or conceal any indictable offence against the law of the Commonwealth or a Territory, or will abstain from, discontinue, or delay any prosecution for any such offence, or will withhold any evidence thereof, shall be guilty of an offence.

Penalty: Imprisonment for 3 years.

45 Inserting advertisements without authority of Court

Any person who, without authority, or knowing the advertisement to be false in any material particular, inserts in the *Gazette* or in any newspaper an advertisement purporting to be published under the authority of any federal court, any court in the exercise of federal jurisdiction or any court of a Territory, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

46 Aiding prisoner to escape

- (1) Any person who:
 - (a) aids a person in escaping, or attempting to escape, from lawful custody in respect of any offence against the law of the Commonwealth or of a Territory;
 - (aa) aids a person who has been lawfully arrested in respect of any offence against a law of the Commonwealth or of a Territory to escape, or to attempt to escape, from that arrest;

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- (ab) aids a person who is lawfully detained under Division 6 or 7 of Part IB or section 20BS in respect of any offence against the law of the Commonwealth or of a Territory to escape, or to attempt to escape, from that detention; or
 - (b) conveys anything into a prison, lock-up or other place of lawful detention with intent to facilitate the escape therefrom of a prisoner who is in custody in respect of an offence against the law of the Commonwealth or of a Territory;
- shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

- (1A) For a person to be guilty of an offence against paragraph (1)(a), (aa) or (ab):
 - (a) the person's conduct must have in fact aided the escape or attempted escape by the person in custody, under arrest or in detention (the *escapee*); and
 - (b) the escapee must have actually escaped or attempted to escape.
- (1B) For a person to be guilty of an offence against paragraph (1)(a), (aa) or (ab), the person must have intended that his or her conduct would aid the escape or attempted escape by the escapee.
- (1C) A person cannot be found guilty of an offence against paragraph (1)(a), (aa) or (ab) if, before the escape or attempted escape, the person:
 - (a) terminated his or her aid to the escapee; and
 - (b) took all reasonable steps to prevent the escape or attempted escape.
- (1D) A person may be found guilty of an offence against paragraph (1)(a), (aa) or (ab) even if the escapee has not been prosecuted, or has not been found guilty of an offence, in relation to the escape or attempted escape.

- (2) In this section:

Territory does not include the Australian Capital Territory.

47 Escaping

A person who has been lawfully arrested, is in lawful custody, or is lawfully detained under Division 6 or 7 of Part IB or section 20BS, in respect of any offence against a law of the Commonwealth or of a Territory (other than the Australian Capital Territory) and who escapes from that arrest, custody or detention is guilty of an offence.

Penalty: Imprisonment for 5 years.

47A Rescuing a prisoner from custody etc.

- (1) A person who:
- (a) rescues by force a person (other than a person referred to in paragraph (c) or (d)) from lawful custody in respect of any offence against a law of the Commonwealth or of a Territory with which the person has been charged;
 - (b) rescues by force a person who has been lawfully arrested in respect of any offence against a law of the Commonwealth or of a Territory with which the person has not been charged;
 - (c) rescues by force a prisoner who is in lawful custody in any prison, lock-up or other place of lawful detention in respect of any offence against a law of the Commonwealth or of a Territory from that prison, lock-up or place; or
 - (d) rescues by force a person who is lawfully detained under Division 6 or 7 of Part IB or section 20BS in respect of any offence against a law of the Commonwealth or of a Territory from that detention;
- is guilty of an offence.

Penalty: Imprisonment for 14 years.

- (2) In this section:

Territory does not include the Australian Capital Territory.

47B Person unlawfully at large

- (1) A person who:
- (a) in accordance with a permission given under a law of a State or Territory, leaves a prison, lock-up or other place of lawful detention where the person is in custody, or is detained under

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Division 6 or 7 of Part IB or section 20BS, in respect of any offence against a law of the Commonwealth or of a Territory; and

(b) refuses or fails to return to that prison, lock-up or other place in accordance with that permission;

is guilty of an offence.

Penalty: Imprisonment for 5 years.

(1A) Paragraph (1)(b) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

(2) In this section:

Territory does not include the Australian Capital Territory.

47C Permitting escape

(1A) In this section:

Territory does not include the Australian Capital Territory.

(1) A person who:

(a) is an officer of a prison, lock-up or other place of lawful detention, a constable or a Commonwealth officer;

(b) is charged for the time being with the custody or detention of another person (including a person detained under Division 6 or 7 of Part IB or section 20BS) in respect of any offence against a law of the Commonwealth or of a Territory; and

(c) intentionally or negligently permits the other person to escape from that custody or detention;

is guilty of an offence.

(2) A constable or a Commonwealth officer, who intentionally or negligently permits a person who has been lawfully arrested in respect of any offence against a law of the Commonwealth or of a Territory to escape from that arrest, is guilty of an offence.

Penalty: Imprisonment for 5 years.

48 Harboursing etc. an escapee

A person who harbours, maintains or employs another person knowing the other person to have escaped from a place where the person is held in lawful custody or detention in respect of any offence against a law of the Commonwealth or of a Territory (other than the Australian Capital Territory) is guilty of an offence.

Penalty: Imprisonment for 5 years.

48A Sentence ceases to run while escaped prisoner at large

- (1) A person who commits an offence against section 47 or 47B shall, upon being returned to lawful custody, undergo, in addition to any punishment imposed for that offence, the punishment that the person would have undergone if the person had not escaped.
- (2) If a person who is undergoing punishment for an offence against a law of the Commonwealth or of a Territory commits an offence against a law of a State or Territory that corresponds to section 47 or 47B, the person is, upon being returned to lawful custody, to undergo (in addition to any punishment imposed for the corresponding offence and any other punishment that the person is required to undergo under the law of the State or Territory) the punishment that the person would have undergone for the first-mentioned offence if the person had not escaped.

49 Removing property under seizure

Any person who, when any property has been attached or taken under the process or authority of any federal court, court acting in the exercise of federal jurisdiction or any court of a Territory, intentionally receives, removes, retains, conceals or disposes of the property, with intent to hinder or defeat the attachment or process, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

Part IV—Piracy

51 Interpretation

In this Part:

act of piracy means an act of violence, detention or depredation committed for private ends by the crew or passengers of a private ship or aircraft and directed:

- (a) if the act is done on the high seas or in the coastal sea of Australia—against another ship or aircraft or against persons or property on board another ship or aircraft; or
- (b) if the act is done in a place beyond the jurisdiction of any country—against a ship, aircraft, persons or property.

Australia includes the External Territories.

coastal sea of Australia means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or Territory;

and includes airspace over those seas.

high seas means seas that are beyond the territorial sea of Australia and of any foreign country and includes the airspace over those seas.

offence against this Part includes:

- (a) an offence against section 6 that relates to an offence against a provision of this Part; and
- (b) an offence against a provision of this Part that is taken to have been committed because of section 11.2 or 11.2A of the *Criminal Code*; and
- (c) an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code* that relates to an offence against a provision of this Part.

pirate-controlled ship or aircraft means a private ship or aircraft which is under the control of persons that:

- (a) have used, are using or intend to use the ship or aircraft in the commission of acts of piracy; or
- (b) have seized control of the ship or aircraft by an act of piracy.

place beyond the jurisdiction of any country means a place, other than the high seas, that is not within the territorial jurisdiction of Australia or of any foreign country.

private ship or aircraft means a ship or aircraft that is not being operated for naval, military, customs or law enforcement purposes by Australia or by a foreign country, and includes a ship or aircraft that has been taken over by its crew or passengers.

ship means a vessel of any type not permanently attached to the sea-bed, and includes any dynamically supported craft, submersible, or any other floating craft, other than a vessel that has been withdrawn from navigation or is laid up.

52 Piracy

A person must not perform an act of piracy.

Penalty: Imprisonment for life.

53 Operating a pirate-controlled ship or aircraft

- (1) A person must not voluntarily participate in the operation of a pirate-controlled ship or aircraft knowing that it is such a ship or aircraft.

Penalty: Imprisonment for 15 years.

- (2) This section applies to acts performed on the high seas, in places beyond the jurisdiction of any country or in Australia.

54 Seizure of pirate ships and aircraft etc.

- (1) A member of the Defence Force or a member of the Australian Federal Police may seize:
 - (a) a ship or aircraft that he or she reasonably believes to be a pirate-controlled ship or aircraft; or

- (b) a thing on board such a ship or aircraft, being a thing that appears to be connected with the commission of an offence against this Part.
- (2) A seizure may be effected:
 - (a) in Australia; or
 - (b) on the high seas; or
 - (c) in a place beyond the jurisdiction of any country.
- (3) The Supreme Court of a State or Territory may:
 - (a) on the application by the custodian of, or a person with an interest in, a ship, aircraft or thing seized under this section, order that the ship, aircraft or thing be returned to its lawful owner; or
 - (b) on its own motion, or on application:
 - (i) if:
 - (A) a person has been convicted of an offence against this Part; and
 - (B) the ship, aircraft or thing was used in, or was otherwise involved in the commission of, the offence;order that the ship, aircraft or thing be forfeited to the Commonwealth; or
 - (ii) make any order relating to the seizure, detention or disposal of the ship, aircraft or thing.
- (4) An order to return a ship, aircraft or thing may be made subject to conditions, including conditions as to the payment to the Commonwealth of reasonable costs of seizure and detention and conditions as to the giving of security for payment of its value should it be forfeited.

55 Written consent of Attorney-General required

- (1) A prosecution for an offence against this Part requires the consent of the Attorney-General.
- (2) Despite subsection (1):
 - (a) a person may be arrested for an offence referred to in subsection (1), and a warrant for such an arrest may be issued and executed; and

- (b) a person may be charged with such an offence; and
 - (c) a person so charged may be remanded in custody or on bail; but no further step in the proceedings referred to in subsection (1) is to be taken until the Attorney-General's consent has been given.
- (3) Nothing in subsection (2) prevents the discharge of the accused if proceedings are not continued within a reasonable time.

56 Evidence of certain matters

- (1) A certificate by the Minister for Foreign Affairs and Trade, or by an eligible person authorised by that Minister to make such a certificate, stating that:
- (a) specified waters were, at a specified time:
 - (i) part of the high seas; or
 - (ii) within the coastal sea of Australia; or
 - (b) a specified place was, at a specified time, a place beyond the jurisdiction of any country;
- is, for the purposes of any proceedings for an offence against this Part, evidence of the facts stated in the certificate.

- (2) In this section:

eligible person means an SES employee in the Department of Foreign Affairs and Trade.

Part VI—Offences by and against public officers

70 Disclosure of information by Commonwealth officers

- (1) A person who, being a Commonwealth officer, publishes or communicates, except to some person to whom he or she is authorized to publish or communicate it, any fact or document which comes to his or her knowledge, or into his or her possession, by virtue of being a Commonwealth officer, and which it is his or her duty not to disclose, shall be guilty of an offence.
- (2) A person who, having been a Commonwealth officer, publishes or communicates, without lawful authority or excuse (proof whereof shall lie upon him or her), any fact or document which came to his or her knowledge, or into his or her possession, by virtue of having been a Commonwealth officer, and which, at the time when he or she ceased to be a Commonwealth officer, it was his or her duty not to disclose, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

Part VII—Official secrets and unlawful soundings**77 Interpretation**

- (1) In this Part, unless the contrary intention appears:

article includes any thing, substance or material.

cipher includes:

- (a) a code or cryptogram;
- (b) a system, method, device or machine whereby a cipher, code or cryptogram may be created; and
- (c) a code word, password or identification signal.

information means information of any kind whatsoever, whether true or false and whether in a material form or not, and includes:

- (a) an opinion; and
- (b) a report of a conversation.

model includes design, pattern and specimen.

plan includes a written record of a survey or of a bearing or measurement taken for the purpose of fixing the position of a place.

sketch includes a representation of a place or thing.

the Commonwealth includes the Territories.

- (2) In this Part, unless the contrary intention appears:

- (a) expressions referring to obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining include obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining in whole or in part, and whether the thing or information itself, or only the substance, effect or description of the thing or information, is obtained, collected, recorded, used, possessed, communicated, received or retained;
- (b) expressions referring to obtaining or retaining any sketch, plan, photograph, model, cipher, note, document, article or information include copying or causing to be copied the

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- whole or a part of the sketch, plan, photograph, model, cipher, note, document, article or information; and
- (c) expressions referring to the communication of any sketch, plan, photograph, model, cipher, note, document, article or information include the transfer or transmission, or the publishing, of the sketch, plan, photograph, model, cipher, note, document, article or information.
- (3) A reference in the Part to a sketch, plan, photograph, model, cipher, note, document or article or to information shall be read as including a reference to a copy of, a part of or a copy of a part of a sketch, plan, photograph, model, cipher, note, document or article or information.
- (4) For the purposes of this Part, a place that is occupied by, or a thing that is under the control of, the Commonwealth shall be deemed to belong to the Commonwealth.
- (5) This Part applies to and in relation to a sketch, plan, photograph, model, cipher, note, document or article by whomsoever it is made and whatsoever information it contains.

79 Official secrets

- (1) For the purposes of this section, a sketch, plan, photograph, model, cipher, note, document, or article is a prescribed sketch, plan, photograph, model, cipher, note, document or article in relation to a person, and information is prescribed information in relation to a person, if the person has it in his or her possession or control and:
- (a) it has been made or obtained in contravention of this Part or in contravention of section 91.1 of the *Criminal Code*;
- (b) it has been entrusted to the person by a Commonwealth officer or a person holding office under the Queen or he or she has made or obtained it owing to his or her position as a person:
- (i) who is or has been a Commonwealth officer;
- (ii) who holds or has held office under the Queen;
- (iii) who holds or has held a contract made on behalf of the Queen or the Commonwealth;
- (iv) who is or has been employed by or under a person to whom a preceding subparagraph applies; or
- (v) acting with the permission of a Minister;

and, by reason of its nature or the circumstances under which it was entrusted to him or her or it was made or obtained by him or her or for any other reason, it is his or her duty to treat it as secret; or

- (c) it relates to a prohibited place or anything in a prohibited place and:
- (i) he or she knows; or
 - (ii) by reason of its nature or the circumstances under which it came into his or her possession or control or for any other reason, he or she ought to know;
- that it should not be communicated to a person not authorized to receive it.

- (2) If a person with the intention of prejudicing the security or defence of the Commonwealth or a part of the Queen's dominions:

- (a) communicates a prescribed sketch, plan, photograph, model, cipher, note, document or article, or prescribed information, to a person, other than:

- (i) a person to whom he or she is authorized to communicate it; or
- (ii) a person to whom it is, in the interest of the Commonwealth or a part of the Queen's dominions, his or her duty to communicate it;

or permits a person, other than a person referred to in subparagraph (i) or (ii), to have access to it;

- (b) retains a prescribed sketch, plan, photograph, model, cipher, note, document or article in his or her possession or control when he or she has no right to retain it or when it is contrary to his or her duty to retain it; or

- (c) fails to comply with a direction given by lawful authority with respect to the retention or disposal of a prescribed sketch, plan, photograph, model, cipher, note, document or article;

he or she shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

- (3) If a person communicates a prescribed sketch, plan, photograph, model, cipher, note, document or article, or prescribed information, to a person, other than:

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(a) a person to whom he or she is authorized to communicate it;
or

(b) a person to whom it is, in the interest of the Commonwealth
or a part of the Queen's dominions, his or her duty to
communicate it;

or permits a person, other than a person referred to in paragraph (a)
or (b), to have access to it, he or she shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

(4) If a person:

(a) retains a prescribed sketch, plan, photograph, model, cipher,
note, document or article in his or her possession or control
when he or she has no right to retain it or when it is contrary
to his or her duty to retain it;

(b) fails to comply with a direction given by lawful authority
with respect to the retention or disposal of a prescribed
sketch, plan, photograph, model, cipher, note, document or
article; or

(c) fails to take reasonable care of a prescribed sketch, plan,
photograph, model, cipher, note, document or article, or
prescribed information, or to ensure that it is not
communicated to a person not authorized to receive it or so
conducts himself or herself as to endanger its safety;

he or she shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

(5) If a person receives any sketch, plan, photograph, model, cipher,
note, document, article or information, knowing or having
reasonable ground to believe, at the time when he or she receives
it, that it is communicated to him or her in contravention of
section 91.1 of the *Criminal Code* or subsection (2) of this section,
he or she shall be guilty of an indictable offence unless he or she
proves that the communication was contrary to his or her desire.

Penalty: Imprisonment for 7 years.

(6) If a person receives any sketch, plan, photograph, model, cipher,
note, document, article or information, knowing, or having
reasonable ground to believe, at the time when he or she receives
it, that it is communicated to him or her in contravention of
subsection (3), he or she shall be guilty of an offence unless he or

she proves that the communication was contrary to his or her desire.

Penalty: Imprisonment for 2 years.

- (7) On a prosecution under subsection (2) it is not necessary to show that the accused person was guilty of a particular act tending to show an intention to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions and, notwithstanding that such an act is not proved against him or her, he or she may be convicted if, from the circumstances of the case, from his or her conduct or from his or her known character as proved, it appears that his or her intention was to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions.
- (8) On a prosecution under this section, evidence is not admissible by virtue of subsection (7) if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that that evidence, if admitted:
- (a) would not tend to show that the defendant intended to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions; or
 - (b) would, having regard to all the circumstances of the case and notwithstanding subsection (9), prejudice the fair trial of the defendant.
- (9) If evidence referred to in subsection (8) is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the defendant intended to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions and must be disregarded by the jury in relation to any other question.
- (10) A person charged with an offence against subsection (2) may be found guilty of an offence against subsection (3) or (4) and a person charged with an offence against subsection (5) may be found guilty of an offence against subsection (6).

80 Prohibited places

The following places shall be prohibited places:

- (a) any work of defence, arsenal, factory, dockyard, aerodrome, camp, ship, aircraft, telegraph or signal station, or office, belonging to the Queen or the Commonwealth, and any other place belonging to the Queen or the Commonwealth used for the purpose of building, repairing, making, obtaining or storing any ship, aircraft, arms, or materials or instruments for use in time of war, or any plans or documents relating thereto;
- (aa) any camp, barracks or place where prisoners of war, internees or members of the Defence Force are detained;
- (b) any place not belonging to the Queen or the Commonwealth where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, obtained, tested or stored under contract with, or with any person on behalf of, the Queen or the Commonwealth;
- (c) any place belonging to the Queen or the Commonwealth which is for the time being declared by the Governor-General to be a prohibited place for the purposes of this Part on the ground that information with respect thereto, or damage thereto, would be useful to an enemy or to a foreign power; and
- (d) any railway, road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith), or any place used for gas, water, electricity works or other works for purposes of a public character, or any place where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, obtained, tested or stored otherwise than on behalf of the Queen or the Commonwealth, which is for the time being declared by the Governor-General by proclamation to be a prohibited place for the purposes of this Part, on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy or to a foreign power.

83 Unlawful soundings

- (1) Any person who in the Commonwealth or in any Territory:
- (a) takes any unlawful soundings;
 - (b) makes any record of any unlawful soundings;
 - (c) intentionally has in possession any record of unlawful soundings;
 - (d) communicates to any person outside the Commonwealth or any Territory any record of or information concerning unlawful soundings; or
 - (e) communicates to any other person any record of or information concerning unlawful soundings with intent that the record or information may be communicated to any person outside the Commonwealth or any Territory;
- shall be guilty of an indictable offence.

Penalty: Imprisonment for 2 years.

- (2) For the purposes of this section all soundings taken in the territorial waters of the Commonwealth or any Territory shall be deemed to be unlawful unless they were made under the authority of the Queen, the Commonwealth Government, or a State Government, or the Government of a Territory, or were reasonably necessary for the navigation of the vessel from which they were taken or for any purpose in which the vessel from which they were taken was lawfully engaged.
- (3) In any prosecution under this section, proof that any soundings were not unlawfully taken shall lie upon the defendant.
- (4) Any figure or word or sign representing a figure (other than the printed figures appearing on any official or recognized map or chart) appearing on any map or sketch of any portion of the coast or territorial waters of Australia or of a Territory shall, in the absence of satisfactory proof to the contrary, be deemed to be a record of an unlawful sounding, but nothing in this subsection shall affect proof of unlawful soundings in any other manner.

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- (5) All records of unlawful soundings including all maps or charts having thereon any record of unlawful soundings shall be forfeited to the Commonwealth.
- (6) A reference in this section to soundings shall be read as including a reference to a hydrographic survey and a reference to the taking of soundings shall be read as including a reference to the making of a hydrographic survey.

85 Institution of prosecution

- (1) A prosecution under this Part shall be instituted only by or with the consent of the Attorney-General or of a person acting under his or her direction but a person charged with an offence against this Part may be arrested, or a warrant for his or her arrest may be issued and executed, and he or she may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General or a person acting under his or her direction has not been obtained, but no further proceedings shall be taken until that consent has been obtained.
- (2) Nothing in this section shall prevent the discharging of the accused if proceedings are not continued within a reasonable time.

85B Hearing in camera etc.

- (1) At any time before or during the hearing before a federal court, a court exercising federal jurisdiction or a court of a Territory of an application or other proceedings, whether in pursuance of this Act or otherwise, the judge or magistrate, or other person presiding or competent to preside over the proceedings, may, if satisfied that such a course is expedient in the interest of the defence of the Commonwealth:
 - (a) order that some or all of the members of the public shall be excluded during the whole or a part of the hearing of the application or proceedings;
 - (b) order that no report of the whole or a specified part of or relating to the application or proceedings shall be published;or

- (c) make such order and give such directions as he or she thinks necessary for ensuring that no person, without the approval of the court, has access, either before, during or after the hearing of the application or the proceedings, to any affidavit, exhibit, information or other document used in the application or the proceedings that is on the file in the court or in the records of the court.
- (2) A person who contravenes or fails to comply with an order made or direction given in pursuance of this section shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

85D Forfeiture of articles etc.

A photograph, sketch, plan, model, article, cipher, note, record, document, die, key, badge, device, seal, stamp or paper which is made, obtained, collected, recorded, retained, forged, possessed or otherwise dealt with in contravention of this Part is forfeited to the Commonwealth.

Part VIIA—Offences relating to postal services

85E Interpretation—definitions

In this Part, unless the contrary intention appears:

article in the course of post means an article that is being carried by post, and includes an article that has been collected or received by Australia Post for carriage by post, but has not been delivered by Australia Post.

Australia Post means the Australian Postal Corporation.

carried by post means carried by or through Australia Post.

employee, in relation to Australia Post, includes a person who performs services for or on behalf of Australia Post and an employee of such a person.

mail-bag includes a package, parcel, container or wrapper belonging to Australia Post in which articles in the course of post are customarily contained, whether or not it actually contains such articles.

postal message means:

- (a) a material record of an unwritten communication:
 - (i) carried by post; or
 - (ii) collected or received by Australia Post for carriage by post; or
- (b) a material record issued by Australia Post as a record of an unwritten communication:
 - (i) carried by post; or
 - (ii) collected or received by Australia Post for carriage by post.

85F Interpretation—expressions used in Australian Postal Corporation Act

Unless the contrary intention appears, expressions used in this Part, and in the *Australian Postal Corporation Act 1989*, have the same respective meanings as in that Act.

85G Forgery of postage stamps etc.

- (1) A person shall not forge a postage stamp.

Penalty: Imprisonment for 10 years.

- (2) A person shall not utter a postage stamp knowing it to be forged.

Penalty: Imprisonment for 10 years.

- (3) A person shall not make, use, have in his or her possession, or sell or otherwise dispose of, any paper or article that has affixed to it, or printed on it, a mark, label or design resembling, apparently intended to resemble or pass for, or likely to be mistaken for, a postage stamp, knowing it is not a postage stamp.

Penalty: Imprisonment for 5 years.

- (4) A person shall not make, use, have in his or her possession, or sell or otherwise dispose of, any article resembling, apparently intended to resemble or pass for, or likely to be mistaken for, an envelope, letter-card, aerogram or other article on which Australia Post has caused a postage stamp to be affixed or printed, knowing that it is not such an article.

Penalty: Imprisonment for 5 years.

- (5) A person shall not make, use, have in his or her possession, or sell or otherwise dispose of, any die, plate or instrument capable of making a mark, label or design in the form of, or in a form resembling, apparently intended to resemble or pass for, or likely to be mistaken for, a postage stamp, knowing that it is such a die, plate or instrument.

Penalty: Imprisonment for 5 years.

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(5A) Subsections (3), (4) and (5) do not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

(6) A person shall be taken to utter a forged postage stamp if the person:

- (a) tenders it or puts it off; or
- (c) uses or deals with it; or
- (e) attempts to induce any person to use, deal with, act on or accept it.

85H Special paper for postage stamps

(1) A person shall not:

- (a) intentionally make, use, have in his or her possession, or sell or otherwise dispose of, paper:
 - (i) supplied for, or used by, Australia Post for the purpose of printing postage stamps; or
 - (ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, Australia Post for that purpose;
- (b) intentionally make, use, have in his or her possession, or sell or otherwise dispose of, paper:
 - (i) supplied for, or used by, a person other than Australia Post for the purpose of printing postage stamps for Australia Post; or
 - (ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, a person other than Australia Post for that purpose; or
- (c) intentionally make, use, have in his or her possession, or sell or otherwise dispose of, any instrument or thing for making a mark, label or design resembling, or apparently intended to resemble or pass for, any distinctive mark, label or design used on any paper especially supplied for the purpose of the printing of postage stamps by or on behalf of Australia Post.

Penalty: Imprisonment for 5 years.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

85N Wrongful delivery of postal article etc.

A person shall not intentionally cause an article in the course of post to be delivered to, or received by, a person other than the person to whom it is directed or that person's authorised agent.

Penalty: Imprisonment for 1 year.

85Q Forgery of postal messages etc.

- (1) A person shall not forge a postal message.

Penalty: Imprisonment for 10 years.

- (2) A person shall not utter a postal message knowing it to be forged.

Penalty: Imprisonment for 10 years.

- (3) A person shall be taken to utter a forged postal message if the person:

- (a) tenders it or puts it off; or
- (c) uses or deals with it; or
- (e) attempts to induce any person to use, deal with, act on or accept it.

85R Wrongful delivery of postal messages

A person shall not intentionally cause a postal message to be delivered to or received by a person other than the person to whom it is directed or that person's authorised agent.

Penalty: Imprisonment for 1 year.

85T Sending false postal messages

A person shall not:

- (a) intentionally and without a person's authority, submit, or cause to be submitted, to Australia Post as a postal message

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signed or to be sent by the person, a postal message that was not so signed or to be sent;

- (b) intentionally submit, or cause to be submitted, to Australia Post a postal message signed with the name of a fictitious person;
- (c) intentionally and without the authority of the person sending a postal message, alter the postal message; or
- (d) intentionally write, issue or deliver a document purporting to be a postal message that has been carried by post knowing that it is not such a message.

Penalty: Imprisonment for 1 year.

85U Obstructing carriage of articles by post

A person shall not intentionally obstruct or hinder the carriage by post of any article.

Penalty: Imprisonment for 2 years.

85V Interference with property of Australia Post

- (1) A person shall not, without the authority of Australia Post, intentionally tamper or interfere with a post-box, or stamp vending machine, erected by Australia Post, or any other property belonging to Australia Post.

Penalty: Imprisonment for 1 year.

- (1A) For the purposes of an offence against subsection (1), absolute liability applies to whichever one of the following physical elements of circumstance is relevant to the offence:
 - (a) that the post-box, or stamp vending machine, is erected by Australia Post;
 - (b) that the property belongs to Australia Post.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

- (2) A person shall not, without the authority of Australia Post, intentionally alter, tamper or interfere with, or obliterate any notice, writing or other marking on or attached to property belonging to Australia Post.

Penalty: 30 penalty units.

- (3) For the purposes of an offence against subsection (2), absolute liability applies to the physical element of circumstance of the offence, that the notice, writing or other marking is on or attached to property belonging to Australia Post.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

85W Causing controlled drugs or controlled plants to be carried by post

- (1) A person shall not intentionally cause to be carried by post an article that consists of, encloses or contains a controlled drug, or a controlled plant, within the meaning of Part 9.1 of the *Criminal Code*.

Penalty: Imprisonment for 2 years.

- (2) Where an act constitutes an offence against a law of a State or Territory, the validity of the law is not affected merely because the act also constitutes an offence against subsection (1).

Exceptions—supply of pharmaceutical products etc. to remote locations

- (3) Subsection (1) does not apply in relation to conduct engaged in by a person if the person engages in the conduct:
- (a) for the purposes of, and in accordance with, the Medical Chest Program; and
 - (b) in the course of duties, powers or functions performed or exercised by the person in the person's capacity as:
 - (i) Australia Post or an employee of Australia Post; or
 - (ii) the Royal Flying Doctor Service of Australia or an RFDSA employee or contractor.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (3A) Subsection (1) does not apply in relation to conduct engaged in by a person if the person engages in the conduct:
- (a) for the purposes of, and in accordance with, a program, prescribed by the regulations, for the supply of packages of pharmaceutical products and medical supplies to remote locations; and

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- (b) in the course of duties, powers or functions performed or exercised by the person in the person's capacity as:
 - (i) Australia Post or an employee of Australia Post; or
 - (ii) a body, or the holder of an office or position, if the body, office or position is prescribed by the regulations in relation to the program; or
 - (iii) an employee of, or a person who performs services for or on behalf of, a government, body or other person, if the government, body or other person is prescribed by the regulations in relation to the program.

Note 1: The regulations may prescribe a body or person by reference to a class of bodies or persons, and may make different provision with respect to different classes of bodies or persons (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

Note 2: A defendant bears an evidential burden in relation to the matter in subsection (3A) (see subsection 13.3(3) of the *Criminal Code*).

- (4) In this section:

Medical Chest Program means the program known under that name (or another name determined by the Royal Flying Doctor Service of Australia) that is:

- (a) for the supply of packages of pharmaceutical products and medical supplies to remote locations across Australia; and
- (b) administered and operated by or on behalf of the Royal Flying Doctor Service of Australia.

RFDSA employee or contractor means any of the following:

- (a) an employee of the Royal Flying Doctor Service of Australia;
- (b) any other person (an **RFDSA contractor**) that performs services for or on behalf of the Royal Flying Doctor Service of Australia;
- (c) a person who is employed by, or that performs services for or on behalf of, an RFDSA contractor.

Royal Flying Doctor Service of Australia means one or more of the following bodies corporate (including, if the name of the body changes, the body as operating under the changed name, and, to the extent that the body stops performing any of its functions, any body corporate responsible for performing the same, or substantially the same, functions):

- (a) the Australian Council of the Royal Flying Doctor Service of Australia;
- (b) the Royal Flying Doctor Service of Australia Central Operations Incorporated;
- (c) the Royal Flying Doctor Service of Australia (Queensland Section);
- (d) the Royal Flying Doctor Service of Australia (South Eastern Section);
- (e) the Royal Flying Doctor Service of Australia (Tasmanian Section);
- (f) the Royal Flying Doctor Service of Australia (Victorian Section);
- (g) the Royal Flying Doctor Service of Australia (Western Operations).

85Z Articles carried by post to be taken to be Australia Post's property

For the purpose of any prosecution for an offence in relation to an article carried by post or under the control of Australia Post, the article shall be taken to be the property of Australia Post.

85ZA Postage stamps to be valuable securities etc.

A postage stamp, and any document issued by Australia Post in relation to the carriage by post of money or a direction to pay an amount of money, shall be taken to be a valuable security for the purposes of any law relating to larceny.

Part VIIC—Pardons, quashed convictions and spent convictions

Division 1—Interpretation and application of Part

85ZL Interpretation of Part

In this Part, unless the contrary intention appears:

AUSTRAC means the Australian Transaction Reports and Analysis Centre continued in existence by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Commonwealth authority means:

- (a) a Commonwealth Minister;
- (b) a Commonwealth Department;
- (ba) the Defence Force;
- (c) a body (whether incorporated or not), or a tribunal, established or appointed for a public purpose by or under a Commonwealth law, not being:
 - (i) an incorporated company, society or association; or
 - (ii) an organisation registered, or an association recognised, under the *Fair Work (Registered Organisations) Act 2009*, or a branch of such an organisation or association;
- (d) a body established or appointed by the Governor-General, or by a Commonwealth Minister, otherwise than by or under a Commonwealth law;
- (e) a person holding or performing the duties of an office established by or under, or an appointment made under, a Commonwealth law other than the office of Secretary of a Commonwealth Department;
- (f) a person holding or performing the duties of an appointment made by the Governor-General, or by a Commonwealth Minister, otherwise than under a Commonwealth law;
- (g) a federal court;
- (h) the Supreme Court of the Australian Capital Territory; or
- (j) the Australian Federal Police.

Commonwealth Department means an Agency within the meaning of the *Public Service Act 1999*.

Commonwealth law means:

- (a) an Act other than:
 - (i) the *Australian Capital Territory (Self-Government) Act 1988*; or
 - (ii) the *Northern Territory (Self-Government) Act 1978*;
- (b) an instrument (including rules, regulations or by-laws) made under an Act (other than an Act referred to in subparagraph (a)(i) or (ii)); or
- (c) any other legislation that applies as a law of the Commonwealth (other than legislation in so far as it is applied by an Act referred to in subparagraph (a)(i) or (ii)), to the extent that it operates as such a law.

Commonwealth Minister means a Minister of State of the Commonwealth.

Commonwealth offence means an offence against a Commonwealth law.

complaint means a complaint under subsection 85ZZA(1).

designated offence means:

- (a) a sexual offence; or
- (b) any other offence against the person if the victim of the offence was under 18 at the time the offence was committed.

designated position means a position in a Commonwealth authority which the head of the authority has determined to be a designated security assessment position whose duties are likely to involve access to national security information classified as secret or top secret.

foreign law means a law of a foreign country.

foreign offence means an offence against a foreign law.

intelligence or security agency means:

- (a) the Australian Security Intelligence Organisation; or
- (b) the Australian Secret Intelligence Service; or
- (c) the Office of National Assessments; or

- (d) that part of the Department of Defence known as the Defence Signals Directorate; or
- (e) that part of the Department of Defence known as the Defence Intelligence Organisation; or
- (f) that part of the Department of Defence known as the Defence Imagery and Geospatial Organisation.

law enforcement agency means:

- (a) the Australian Federal Police;
- (b) the police force of a State or Territory;
- (ba) Customs;
- (bb) the Australian Commission for Law Enforcement Integrity;
- (c) the ACC;
- (e) the CrimTrac Agency;
- (f) the Independent Commission Against Corruption established under the Independent Commission Against Corruption Act, 1988 of the State of New South Wales, or a similar body established under a law of another State;
- (g) the New South Wales Crime Commission established under the New South Wales Crime Commission Act 1985 of New South Wales, or a similar body established under a law of another State;
- (h) the Office of the Director of Public Prosecutions, or a similar body established under a State law;
- (j) a Director of Public Prosecutions, or a person performing a similar function, appointed under a law of a State;
- (k) staff appointed to assist a Director or person referred to in paragraph (j); or
- (m) officers or members of the Attorney-General's Department of a State or a similar State Department, or of a body administered by such a Department, being officers or members whose primary function is the institution or conduct of proceedings for State offences.

national security information means information affecting the defence, security or international relations of Australia.

Privacy Act means the *Privacy Act 1988*.

Secretary, in relation to a Commonwealth Department, means the Agency Head within the meaning of the *Public Service Act 1999*.

security has the same meaning as in the *Australian Security Intelligence Organisation Act 1979*.

spent, in relation to a conviction, has the meaning given it in section 85ZM.

State includes the Australian Capital Territory and the Northern Territory.

State authority means:

- (a) a State Minister;
- (b) a State Department;
- (c) a body (whether incorporated or not), or a tribunal, established or appointed for a public purpose by or under a State law, not being:
 - (i) an incorporated company, society or association;
 - (ii) an association of employers or employees that is registered or recognised under a State law dealing with the conciliation and arbitration of industrial disputes; or
 - (iii) the body corporate constituted under subsection 6(1) of the *Legal Practitioners Ordinance 1970* of the Australian Capital Territory or a similar body constituted under a law of another State;
- (d) a body established or appointed by a Governor of a State, or by a State Minister, or by the Australian Capital Territory Executive or the Administrator of the Northern Territory otherwise than by or under a State law;
- (e) a person holding or performing the duties of an office established by or under, or an appointment made under, a State law, other than the office of head of a State Department (however described);
- (f) a person holding or performing the duties of an appointment, being an appointment made by a Governor of a State or by a State Minister, or by the Australian Capital Territory Executive or the Administrator of the Northern Territory otherwise than under a State law;
- (g) a State court; or
- (h) a State police force.

State law means a law in force in a State (other than a Commonwealth law).

State offence means an offence against a State law.

Territory does not include the Australian Capital Territory or the Northern Territory.

Territory law means a law in force in a Territory (other than a Commonwealth law).

Territory offence means an offence against a Territory law.

waiting period, in relation to an offence, means:

- (a) if the person convicted of the offence was dealt with as a minor in relation to the conviction—the period of 5 years beginning on the day on which the person was convicted of the offence; or
- (b) in any other case—the period of 10 years beginning on the day on which the person was convicted of the offence.

85ZM Meaning of *conviction* and *spent conviction*

- (1) For the purposes of this Part, a person shall be taken to have been convicted of an offence if:
 - (a) the person has been convicted, whether summarily or on indictment, of the offence;
 - (b) the person has been charged with, and found guilty of, the offence but discharged without conviction; or
 - (c) the person has not been found guilty of the offence, but a court has taken it into account in passing sentence on the person for another offence.
- (2) For the purposes of this Part, a person's conviction of an offence is spent if:
 - (a) the person has been granted a pardon for a reason other than that the person was wrongly convicted of the offence; or
 - (b) the person was not sentenced to imprisonment for the offence, or was not sentenced to imprisonment for the offence for more than 30 months, and the waiting period for the offence has ended.

85ZN Meaning of *quash*

For the purposes of this Part, a person's conviction of an offence shall be taken to have been quashed:

- (a) where the person was convicted of the offence—if the conviction has been quashed or set aside;
- (b) where the person was found guilty of the offence, but discharged without conviction—if the finding of guilt has been quashed or set aside; or
- (c) where the person was not found guilty of the offence, but a court has taken it into account in passing sentence on the person for another offence:
 - (i) if the person's conviction of the other offence has been quashed or set aside; or
 - (ii) if the court's decision to take the offence into account has been set aside.

85ZP Application of Part

- (1) This Part applies in relation to a person convicted of an offence whether the person was convicted before or after the commencement of this Part.
- (2) A reference in this Part to a person convicted of an offence does not include a reference to a body corporate.
- (3) Nothing in this Part authorises a person or body to disclose or take into account a conviction of an offence if to do so would contravene any Commonwealth law, State law, Territory law or foreign law.

Note: An exception is a disclosure to the Federal Court of Australia for the purposes of indictable primary proceedings, criminal appeal proceedings or related matters (see section 85ZZL).

- (4) Nothing in this Part affects anything lawfully done before a pardon is granted or a conviction is quashed or spent.

85ZQ Part binds the Crown

This Part binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

Division 2—Pardons for persons wrongly convicted, and quashed convictions

85ZR Pardons for persons wrongly convicted

- (1) Despite any other Commonwealth law or any State law or Territory law, where a person has been granted a free and absolute pardon for a Commonwealth offence or a Territory offence because the person was wrongly convicted of the offence:
 - (a) the person shall be taken, in any State or Territory, for all purposes, never to have been convicted of the offence; and
 - (b) the person shall be taken, in a foreign country, by any Commonwealth authority or State authority in that country, for all purposes, never to have been convicted of the offence.
- (2) Despite any other Commonwealth law or any Territory law, where, under a State law or a foreign law a person is, in particular circumstances or for a particular purpose, to be taken never to have been convicted of an offence under a law of that State or foreign country:
 - (a) the person shall be taken, in any Territory, in corresponding circumstances or for a corresponding purpose, never to have been convicted of that offence; and
 - (b) the person shall be taken, in any State or foreign country, in corresponding circumstances or for a corresponding purpose, by any Commonwealth authority in that State or country, never to have been convicted of that offence.

85ZS Effect of pardons for persons wrongly convicted

- (1) Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, where, under section 85ZR, a person is, in particular circumstances or for a particular purpose, to be taken never to have been convicted of an offence:
 - (a) the person is not required, in those circumstances or for that purpose, to disclose the fact that the person was charged with, or convicted of, the offence;
 - (b) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence;

- (c) in the case of a Commonwealth offence or a Territory offence—the person is not otherwise subject to any legal duty or disability to which he or she would not have been subject if he or she had not been convicted; and
 - (d) anyone else who knows, or could reasonably be expected to know, that section 85ZR applies to the person in relation to the offence shall not:
 - (i) without the person’s consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first-mentioned person not to disclose it to that other person or that authority; or
 - (ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.
- (2) Subsection (1) does not affect the generality of section 85ZR.

85ZT Quashed convictions

- (1) Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, where a person’s conviction of a Commonwealth offence or a Territory offence has been quashed, the person is not required:
 - (a) in any State or Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or
 - (b) in a foreign country—to disclose to any Commonwealth authority or State authority in that country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.
- (2) Subject to Division 6, but despite any other Commonwealth law or any Territory law, where a person’s conviction of a State offence or a foreign offence has been quashed, the person is not required:
 - (a) in any Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or
 - (b) in any State or foreign country—to disclose to any Commonwealth authority in that State or country, for any

purpose, the fact that the person has been charged with, or convicted of, the offence.

85ZU Effect of quashed convictions

Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, where, under section 85ZT, it is lawful for a person not to disclose, in particular circumstances, or for a particular purpose, the fact that he or she was charged with, or convicted of, an offence:

- (a) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence; and
- (b) anyone else who knows, or could reasonably be expected to know, that section 85ZT applies to the person in relation to the offence shall not:
 - (i) without the person's consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first-mentioned person not to disclose it to that other person or that authority; or
 - (ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

Division 3—Spent convictions

85ZV Spent convictions

- (1) Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, if a person's conviction of a Commonwealth offence or a Territory offence is spent, the person is not required:
 - (a) in any State or Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or
 - (b) in a foreign country—to disclose to any Commonwealth authority or State authority in that country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.
- (2) Subject to Division 6, but despite any other Commonwealth law or any Territory law, if a person's conviction of a State offence or a foreign offence is spent, the person is not required:
 - (a) in any Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or
 - (b) in any State or foreign country—to disclose to any Commonwealth authority in that State or country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.
- (3) Subject to Division 6, but despite any other Commonwealth law or any Territory law, where:
 - (a) a person was convicted of a State offence;
 - (b) subsection (2) does not apply to the person in relation to the offence; and
 - (c) under a law in force in that State, being a law dealing with the disclosure or taking into account of spent convictions (however described in that law) it is lawful for the person, in particular circumstances or for a particular purpose, not to disclose the fact that the person was charged with, or convicted of, the offence;

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the person is not required, in corresponding circumstances or for a corresponding purpose:

- (d) in a Territory—to disclose the fact that the person was charged with, or convicted of, the offence; or
- (e) in a State or foreign country—to disclose that fact to any Commonwealth authority in that State or country.

85ZW Effect of right of non-disclosure

Subject to Division 6, but despite any other Commonwealth law, or any State law or Territory law, where, under section 85ZV, it is lawful for a person not to disclose, in particular circumstances, or for a particular purpose, the fact that he or she was charged with, or convicted of, an offence:

- (a) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence; and
- (b) anyone else who knows, or could reasonably be expected to know, that section 85ZV applies to the person in relation to the offence shall not:
 - (i) without the person's consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first-mentioned person not to disclose it to that other person or that authority; or
 - (ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

Division 4—Convictions of further offences

85ZX Convictions of further Commonwealth or Territory offences

(1) Where:

- (a) Division 3 applies to a person in relation to an offence of which the person was convicted, or would (unless an order is made under this section) so apply to the person if the waiting period for the offence had ended; and
- (b) before or after the end of the waiting period for the offence, the person is convicted summarily, by a court exercising federal jurisdiction or a court of a Territory, of another offence, being an offence committed during that waiting period;

the court may order that Division 3 ceases to apply or does not apply to the person, as the case requires, in relation to the earlier offence until the waiting period for the later offence has ended.

(2) Where:

- (a) Division 3 applies to a person in relation to an offence of which the person was convicted, or would (but for this subsection) so apply to the person if the waiting period for the offence had ended; and
- (b) before or after the end of the waiting period for the offence, the person is convicted on indictment, by a court exercising federal jurisdiction or a court of a Territory, of another offence, being an offence committed during that waiting period;

Division 3 ceases to apply or does not apply to the person, as the case requires, in relation to the earlier offence until the waiting period for the later offence has ended.

85ZY Convictions of further State or foreign offences

Subject to subsection 85ZV(3), where:

- (a) Division 3 applies to a person in relation to an offence of which the person was convicted, or would so apply to the person if the waiting period for the offence had ended; and

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- (b) before or after the end of the waiting period for the offence, the person is convicted (whether summarily or on indictment) by a court of a State (not being a court exercising federal jurisdiction) or a court of a foreign country, of another offence, being an offence committed during that waiting period;

Division 3 ceases to apply or does not apply to the person, as the case requires, in relation to the earlier offence until the waiting period for the later offence has ended.

Division 5—Complaints to Privacy Commissioner

85ZZ Privacy Commissioner's functions

- (1) The Privacy Commissioner has the following functions:
 - (a) to investigate an act or practice of a person or of a Commonwealth authority or State authority that may breach Division 2 or 3 and, where the Commissioner considers it appropriate, to try, by conciliation, to effect a settlement of the matters that gave rise to the investigation;
 - (b) to receive and examine any written requests for complete or partial exclusion of persons from the application of Division 2 or 3 and advise the Minister whether an exclusion should be granted and whether there should be any restrictions on the circumstances in which an exclusion would apply.
- (2) In the performance of those functions, the Privacy Commissioner shall:
 - (a) have due regard for the protection of important human rights and social interests that compete with the rights given by this Part, including the recognition of the right of government and business to achieve their objectives in an efficient way;
 - (b) take account of:
 - (i) international obligations accepted by Australia, including those concerning the international technology of communications; and
 - (ii) developing general international guidelines relevant to the better protection of individual privacy;
 - (c) take into account the nature of the offence concerned;
 - (d) ensure that his or her advice is, within the limitations of the powers of the Commonwealth, capable of acceptance, adaptation and extension in any State or Territory; and
 - (e) ensure that his or her directions and advice are consistent with the Information Privacy Principles set out in section 14 of the Privacy Act.

85ZZA Complaints to the Privacy Commissioner

- (1) A person may complain to the Privacy Commissioner about an act or practice of another person or of a Commonwealth authority or State authority that may be a breach of Division 2 or 3.
- (2) A complaint shall be in writing.
- (3) It is the duty of members of the Privacy Commissioner's staff to give appropriate help to a person who wishes to make a complaint and wants help to formulate the complaint.
- (4) The complaint shall specify the respondent to the complaint.

85ZZB Identity of respondent to complaint

- (1) If a complaint is about an act or practice of a Commonwealth Department or a State Department, or an officer of such a Department, the Secretary or head of the Department is the respondent to the complaint.
- (2) If a complaint is about an act or practice of another Commonwealth authority or State authority, or a member or officer of such an authority, being an authority that is within the responsibility of a Commonwealth or State Minister but not within the responsibility of a Commonwealth Department or a State Department, the Minister is the respondent to the complaint.
- (3) If a complaint is about an act or practice of any other Commonwealth authority or State authority, or a member or officer of such an authority, the chief executive officer of the authority is the respondent to the complaint.
- (4) If a complaint is about an act or practice of a person other than a Commonwealth authority or a State authority, that person is the respondent to the complaint.

85ZZC Investigation of complaints

- (1) The Privacy Commissioner shall consider a complaint, and shall investigate the act or practice complained of, if the act or practice may be a breach of Division 2 or 3.

- (2) The Privacy Commissioner may decide not to investigate, or not to investigate further, an act or practice about which a complaint has been made if satisfied that:
- (a) the act or practice is not a breach of Division 2 or 3;
 - (b) the complainant has not complained to the respondent about the act or practice;
 - (c) the complainant has complained to the respondent, and that the respondent:
 - (i) has dealt, or is dealing, adequately with the complaint; or
 - (ii) has not yet had an adequate opportunity to deal with the complaint;
 - (d) the complaint was made more than 12 months after the complainant became aware of the act or practice;
 - (e) the complaint is frivolous, vexatious, misconceived or lacking in substance;
 - (f) the act or practice is the subject of an application under another Commonwealth law, or under a State law or a Territory law, and that the subject-matter of the complaint has been, or is being, dealt with adequately under that law; or
 - (g) the act or practice could be made the subject of an application under another Commonwealth law, or under a State law or a Territory law, for a more appropriate remedy.

85ZZD Determinations of Privacy Commissioner

- (1) After investigating a complaint, the Commissioner may:
- (a) make a determination dismissing the complaint; or
 - (b) find the complaint substantiated and make a determination that includes one or more of the following:
 - (i) a declaration that the authority or person about whom the complaint was made has engaged in conduct unlawful under this Act and should not repeat or continue that conduct;
 - (ii) a declaration that the respondent should do any reasonable act or carry out any reasonable course of conduct to redress any loss or damage suffered by the complainant;
 - (iii) a declaration that the respondent should employ or re-employ the complainant;

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- (iv) a declaration that the respondent should promote the complainant;
 - (v) a declaration that the complainant is entitled to a specified amount by way of compensation for any loss or damage suffered because of the act or practice about which the complaint was made;
 - (vi) a declaration that the termination of a contract or agreement should be varied to redress any loss or damage suffered by the complainant;
 - (vii) a declaration that it would be inappropriate for any further action to be taken in the matter.
- (2) The Privacy Commissioner may require one or both parties to a complaint to attend such counselling as is specified by the Commissioner with a view to settling the matter to which the complaint relates.
- (3) When making a determination, the Privacy Commissioner shall state any findings of fact upon which the determination is based.
- (4) When making a determination, the Privacy Commissioner may declare that the complainant is entitled to a specified amount to reimburse the complainant for expenses reasonably incurred in connection with the making of the complaint and the investigation of the complaint.
- (5) In paragraph (1)(b):
- damage* includes humiliation suffered by the complainant or injury to his or her feelings.

85ZZE Payment of compensation or expenses

Where a determination under paragraph 85ZZD(1)(b) includes a declaration of a kind referred to in subparagraph 85ZZD(1)(b)(v) or subsection 85ZZD(4), the declaration has effect as a declaration that the complainant is entitled to receive the specified amount:

- (a) if the complaint was about an act or practice of a Commonwealth authority—from the Commonwealth;
- (b) if the complaint was about an act or practice of a State authority—from that State; or
- (c) in any other case—from the respondent.

85ZZF Enforcement of determination or recommendation

- (1) The Privacy Commissioner or the complainant may apply to the Federal Court of Australia for an order to enforce a determination under paragraph 85ZZD(1)(b) or subsection 85ZZD(4).
- (2) If the Federal Court of Australia is satisfied that the authority or person about whom the complaint was made has done anything that is a breach of Division 2 or 3 the court may make any orders it thinks fit (including a declaration of right).
- (3) An order may give effect to a determination.

85ZZG Application of Privacy Act

- (1) Sections 42 to 48 (inclusive) of the Privacy Act, and sections 50, 64 to 68 (inclusive), 96 and 98 of that Act apply, with any necessary changes, in relation to a complaint as if the complaint had been made under subsection 36(1) of that Act.
- (2) Where a provision of the Privacy Act is applied under subsection (1) or (2), a reference in that provision to an agency shall be read as a reference to a Commonwealth authority or a State authority, as the case requires.

Division 6—Exclusions

Subdivision A—Exclusions (Divisions 2 and 3)

85ZZGA Object of Subdivision

The object of this Subdivision is to help protect children from sexual, physical and emotional harm by permitting criminal history information to be disclosed and taken into account in assessing the suitability of persons for work with children.

85ZZGB Exclusion: disclosing information to a person or body

Divisions 2 and 3 do not apply in relation to the disclosure of information to a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to obtain and deal with information about persons who work, or seek to work, with children; and
- (b) the disclosure is for the purpose of the person or body obtaining and dealing with such information in accordance with the prescribed law.

85ZZGC Exclusion: person or body taking information into account

Divisions 2 and 3 do not apply in relation to the taking into account of information by a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to deal with information about persons who work, or seek to work, with children; and
- (b) the taking into account is:
 - (i) for the purpose of dealing with such information in accordance with the prescribed law; or
 - (ii) required by or under a Commonwealth law, a State law or a Territory law.

85ZZGD Exclusion: person or body disclosing information

Divisions 2 and 3 do not apply in relation to the disclosure of information by a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to deal with information about persons who work, or seek to work, with children; and
- (b) the disclosure is required by or under a Commonwealth law, a State law or a Territory law.

85ZZGE Prescribed persons and bodies

Before the Governor-General makes a regulation prescribing, for the purposes of section 85ZZGB, 85ZZGC or 85ZZGD, a person or body:

- (a) to which information may be disclosed; or
- (b) by which information may be taken into account or disclosed;

the Minister must be satisfied that the person or body:

- (c) is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children; and
- (d) complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management; and
- (e) complies with the principles of natural justice; and
- (f) has risk assessment frameworks and appropriately skilled staff to assess risks to children's safety.

85ZZGF Definitions

In this Subdivision:

child means a person who is under 18.

work includes the following:

- (a) work:
 - (i) under a contract of employment, contract of apprenticeship or contract for services; or

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- (ii) in a leadership role in a religious institution, as part of the duties of a religious vocation or in any other capacity for the purposes of a religious institution; or
- (iii) as an officer of a body corporate, member of the committee of management of an unincorporated body or association or member of a partnership; or
- (iv) as a volunteer, other than unpaid work engaged in for a private or domestic purpose; or
- (v) as a self-employed person;
- (b) practical training as part of a course of education or vocational training;
- (c) acting in a prescribed capacity or engaging in a prescribed activity.

85ZZGG Reviews of operation of this Subdivision

- (1) The Minister must cause 2 reviews of the operation of this Subdivision to be conducted.
- (2) The first review must:
 - (a) start not later than 30 June 2011; and
 - (b) be completed within 3 months.
- (3) The 2nd review must:
 - (a) start not later than 30 June 2013; and
 - (b) be completed within 3 months.
- (4) The Minister must cause a written report about each review to be prepared.
- (5) The Minister must cause a copy of each report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

Subdivision B—Exclusions (Division 3)

85ZZH Exclusions

Division 3 does not apply in relation to the disclosure of information to or by, or the taking into account of information by a person or body referred to in one of the following paragraphs for the purpose specified in relation to the person or body:

- (a) a law enforcement agency, for the purpose of making decisions in relation to prosecution or sentencing or of assessing:
 - (i) prospective employees or prospective members of the agency; or
 - (ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;
- (b) an intelligence or security agency, for the purpose of assessing:
 - (i) prospective employees or prospective members of the agency; or
 - (ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;
- (c) a court or tribunal established under a Commonwealth law, a State law or a Territory law, for the purpose of making a decision, including a decision in relation to sentencing;
- (d) a person who makes a decision under the *Migration Act 1958*, the *Australian Citizenship Act 2007*, or the *Immigration Act 1980* of the Territory of Norfolk Island, for the purpose of making that decision;
- (g) a Commonwealth authority, for the purpose of assessing appointees or prospective appointees to a designated position;
- (h) AUSTRAC, for the purpose of assessing:
 - (i) prospective members of the staff of AUSTRAC; or
 - (ii) persons proposed to be engaged as consultants under subsection 225(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*; or
 - (iii) persons whose services are proposed to be made available to AUSTRAC under subsection 225(3) of that Act;
- (j) the Australian Government Solicitor, for the purpose of instituting or conducting proceedings for Commonwealth offences;
- (k) a prescribed person or body, for a prescribed purpose, in relation to a conviction for a prescribed offence.

85ZZJ Further exclusions—law enforcement agencies

- (1) Division 3 does not apply in relation to:
 - (a) the disclosure of information by a law enforcement agency, or an employee or member of a law enforcement agency, to another law enforcement agency, or an employee or member of another law enforcement agency, where the disclosure is made in the discharge of the duties of the first-mentioned agency, employee or member;
 - (b) filing or recording information that comes into the possession of a law enforcement agency, or an employee or member of a law enforcement agency, where the filing or recording is done in the discharge of the duties of the agency, employee or member; or
 - (c) the use by a law enforcement agency of information relating to the investigation or prevention of crime, where the investigation or prevention of crime is a function of the agency.

- (2) In this section:

employee, in relation to a law enforcement agency, includes a person engaged as a consultant to, or to perform services for, the agency or a member of the agency.

Subdivision C—Other matters

85ZZK Fair reporting: pardons and quashed convictions

The publication of a fair and accurate report of the circumstances in which a person was granted a pardon (on any ground), or a person's conviction was quashed, and of any related court proceedings, is not a breach of Division 2 or 3.

85ZZL Criminal proceedings before the Federal Court of Australia

- (1) The Federal Court of Australia (and an officer of that court) may:
 - (a) require a person to disclose information to the court, or an officer of the court, about any Commonwealth offence, State offence, Territory offence or foreign offence in relation to which the person has been charged or convicted; and
 - (b) take into account that information;

for the purposes of indictable primary proceedings, criminal appeal proceedings or matters relating to either such proceedings.

Note: The officers of the Federal Court of Australia are referred to in section 18N of the *Federal Court of Australia Act 1976*.

- (2) Division 3 does not apply in relation to a disclosure of information, or a taking into account of information, under subsection (1).
- (3) Subsections (1) and (2) have effect despite section 85ZP and any other Commonwealth law, and any State law, Territory law or foreign law.
- (4) For the purposes of references in this section to *foreign law* or *foreign offence*, a foreign country is taken to include a region where:
 - (a) the region is a colony, territory or protectorate of a foreign country; or
 - (b) the region is part of a foreign country; or
 - (c) the region is under the protection of a foreign country; or
 - (d) a foreign country exercises jurisdiction or control over the region; or
 - (e) a foreign country is responsible for the region's international relations.
- (5) In this section:

criminal appeal proceedings has the same meaning as in the *Federal Court of Australia Act 1976*.

indictable primary proceedings has the same meaning as in the *Federal Court of Australia Act 1976*.

Part VIII—Miscellaneous

87 False certificates

Any person who, being authorized or required by a law of the Commonwealth to give any certificate touching any matter by virtue whereof the rights of any person may be harmfully affected, gives a certificate which is, to his or her knowledge, false in any material particular, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

89 Trespassing on Commonwealth land

- (1) A person who, without lawful excuse (proof whereof shall lie upon him or her), trespasses or goes upon any prohibited Commonwealth land shall be guilty of an offence.

Penalty: 10 penalty units.

- (2) Where a person is found upon prohibited Commonwealth land, a constable, a protective service officer or an authorized Commonwealth officer may request the person to furnish his or her name and address to the constable or officer and, if the person fails to comply with the request, he or she shall be guilty of an offence.

Penalty: 10 penalty units.

- (3) Where a person is found upon prohibited Commonwealth land and a constable or authorized Commonwealth officer has reasonable grounds to believe that that person has gone upon the land in circumstances that amount to an offence against subsection (1), the constable or officer may apprehend that person and that person may be detained in proper custody to be dealt with according to law.

- (4) An authorized Commonwealth officer shall not, under this section, request a person to furnish his or her name or address, or apprehend a person, unless he or she first produces to the person the instrument by virtue of which he or she is an authorized Commonwealth officer.

- (5) In this section:

authorized Commonwealth officer means a Commonwealth officer declared by a Minister, by instrument in writing, to be an authorized Commonwealth officer for the purposes of this section.

prohibited Commonwealth land means land belonging to, or in the occupation of, the Commonwealth or a public authority under the Commonwealth, being land upon which is posted a notice to the effect that trespassing upon the land is prohibited.

protective service officer has the same meaning as in the *Australian Federal Police Act 1979*.

89A Discharging firearms on or over Commonwealth land

- (1) A person who, without lawful authority or excuse (proof whereof shall lie upon him or her), discharges a firearm upon or over a prohibited area shall be guilty of an offence and the firearms shall be forfeited to the Commonwealth.

Penalty: Imprisonment for 6 months.

- (2) A person who commits an offence against this section may be apprehended by a constable or an authorized Commonwealth officer and detained in proper custody to be dealt with according to law.
- (3) An authorized Commonwealth officer shall not, under this section, apprehend a person unless he or she first produces to the person the instrument by virtue of which he or she is an authorized Commonwealth officer.
- (4) In this section:

authorized Commonwealth officer means a Commonwealth officer declared by a Minister, by instrument in writing, to be an authorized Commonwealth officer for the purposes of this section.

prohibited area means land belonging to, or in the occupation of, the Commonwealth or a public authority under the Commonwealth, being land upon which is posted a notice to the effect that shooting upon or over the land is prohibited.

90 Trespass by cattle or live stock

Any person who, without lawful excuse (proof whereof shall lie upon him or her), suffers or permits any cattle or other live stock in his or her possession, custody, or control, to trespass or stray upon any land belonging to, or in the occupation of, the Commonwealth, shall be guilty of an offence.

Penalty: 1 penalty unit.

90A Destroying etc. posters etc. relating to Commonwealth loans

A person shall not, without lawful authority, destroy, injure, disfigure or remove a poster, advertisement or notice relating to a Commonwealth loan.

Penalty: Imprisonment for 1 year.

90B False statements in documents filed etc. under laws of a Territory

A person who:

- (a) in a document that, under a law of a Territory, is, or is required to be, produced or furnished to, or filed or lodged with, a Commonwealth officer; or
- (b) in a document that is required to be registered under, or to be prepared for the purposes of, a law of a Territory;

intentionally makes a statement that the person knows is false shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

91 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

Schedule—Form of explanation under section 23V

Section 23V

When you were interviewed by _____, I/we made a record in writing of what you said, and what we said to you, in the interview. I/We made the record *at the time of the interview/*as soon as practicable after the interview. It is in *English/*the language that you used in the interview. I/We will give you a copy.

I am now going to read it to you in the _____ language that you used in the interview.

You can interrupt the reading at any time if you think there is something wrong with the record. At the end of the reading you can tell me/us about anything else you think is wrong with the record, as well as the things you mentioned during the reading.

I/We will make a tape recording of reading the record and everything you say, or I/we say to you, during the reading and at the end. I/We will give you a copy of that tape recording and, if a transcript is made, a copy of that transcript.

*Delete whichever is not applicable.

Table of Acts**Notes to the *Crimes Act 1914*****Note 1**

The *Crimes Act 1914* as shown in this compilation comprises Act No. 12, 1914 amended as indicated in the Tables below.

The *Crimes Act 1914* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendment is incorporated in this compilation.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

For application, saving or transitional provisions made by the *Freedom of Information Amendment (Reform) Act 2010*, see Act No. 51, 2010.

All relevant information pertaining to application, saving or transitional provisions prior to 29 June 1998 is not included in this compilation. For subsequent information see Table A.

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Crimes Act 1914</i> | 12, 1914 | 29 Oct 1914 | 29 Oct 1914 | |
| <i>Crimes Act 1915</i> | 6, 1915 | 7 May 1915 | 29 Oct 1914 (see s. 3) | — |
| as amended by | | | | |
| <i>War Precautions Act Repeal Act 1920</i> | 54, 1920 | 2 Dec 1920 | 2 Dec 1920 | — |
| <i>War Precautions Act Repeal Act 1920</i> | 54, 1920 | 2 Dec 1920 | 2 Dec 1920 | — |
| <i>Crimes Act 1926</i> | 9, 1926 | 16 Mar 1926 | 29 Mar 1926 (see <i>Gazette</i> 1926, p. 437) | — |
| <i>Crimes Act 1928</i> | 13, 1928 | 22 June 1928 | 22 June 1928 | — |
| <i>Crimes Act 1932</i> | 30, 1932 | 30 May 1932 | 30 May 1932 | — |
| <i>Judiciary Act 1937</i> | 5, 1937 | 3 July 1937 | 3 July 1937 | S. 5 |
| <i>Crimes Act 1941</i> | 6, 1941 | 4 Apr 1941 | 3 Sept 1939 | — |
| <i>Defence (Transitional Provisions) Act 1946</i> | 77, 1946 | 14 Dec 1946 | 1 Jan 1947 | — |
| <i>Statute Law Revision Act 1950</i> | 80, 1950 | 16 Dec 1950 | 31 Dec 1950 | S. 16 |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|---|
| <i>Crimes Act 1955</i> | 10, 1955 | 31 May 1955 | 31 May 1955 | — |
| <i>Crimes Act 1959</i> | 11, 1959 | 23 Apr 1959 | S. 4: 14 Jan 1960 (see s. 2 and <i>Gazette</i> 1960, p. 47) Remainder: Royal Assent | — |
| <i>Crimes Act 1960</i> | 84, 1960 | 13 Dec 1960 | 13 Dec 1960 | — |
| <i>Statute Law Revision (Decimal Currency) Act 1966</i> | 93, 1966 | 29 Oct 1966 | 1 Dec 1966 | — |
| <i>Crimes Act 1973</i> | 33, 1973 | 27 May 1973 | 27 May 1973 | — |
| <i>Statute Law Revision Act 1973</i> | 216, 1973 | 19 Dec 1973 | 31 Dec 1973 | Ss. 9(1) and 10 |
| <i>Postal and Telecommunications Commissions (Transitional Provisions) Act 1975</i> | 56, 1975 | 12 June 1975 | Ss. 4 and 38: 1 July 1975 (see s. 2(1) and <i>Gazette</i> 1975, No. S122) Remainder: Royal Assent | — |
| <i>Jurisdiction of Courts (Miscellaneous Amendments) Act 1979</i> | 19, 1979 | 28 Mar 1979 | Parts II–XVII (ss. 3–123): 15 May 1979 (see <i>Gazette</i> 1979, No. S86) Remainder: Royal Assent | S. 124 |
| <i>Australian Federal Police (Consequential Amendments) Act 1979</i> | 155, 1979 | 28 Nov 1979 | 19 Oct 1979 (see s. 2 and <i>Gazette</i> 1979, No. S206) | — |
| <i>Australian Federal Police (Consequential Amendments) Act 1980</i> | 70, 1980 | 28 May 1980 | 28 May 1980 | — |
| <i>Crimes (Currency) Act 1981</i> | 122, 1981 | 17 Sept 1981 | Ss. 1–3: Royal Assent Remainder: 16 Dec 1985 (see s. 2(2)) | — |
| as amended by | | | | |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i> | 193, 1985 | 16 Dec 1985 | S. 3: (a) | S. 16 |
| <i>Crimes Amendment Act 1982</i> | 67, 1982 | 16 June 1982 | Ss. 1, 2 and 14: Royal Assent Ss. 6, 8 and 9: 16 Dec 1985 Remainder: 1 Nov 1982 (see <i>Gazette</i> 1982, No. G43, p. 2) | Ss. 4(2), 5(2), 7(2), 8(2), (3), 10(2) and 13(2) S. 6(2) (rep. by 193, 1985, s. 3) |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| as amended by | | | | |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i> | 193, 1985 | 16 Dec 1985 | S. 3: Royal Assent (b) | S. 16 |
| <i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i> | 80, 1982 | 22 Sept 1982 | Part XXII (ss. 60–65): 16 Dec 1985 (c) | — |
| <i>Defence Force (Miscellaneous Provisions) Act 1982</i> | 153, 1982 | 31 Dec 1982 | 3 July 1985 (see s. 2 and <i>Gazette</i> 1985, No. S255) | — |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1983</i> | 91, 1983 | 22 Nov 1983 | S. 3: Royal Assent (d) | S. 6(1) |
| <i>Director of Public Prosecutions (Consequential Amendments) Act 1983</i> | 114, 1983 | 14 Dec 1983 | S. 8: 16 Dec 1985 (see s. 2(2), (3)) Remainder: 5 Mar 1984 (see s. 2(1) and <i>Gazette</i> 1984, No. S55) | — |
| <i>Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1983</i> | 136, 1983 | 22 Dec 1983 | 27 Aug 1985 (see s. 2 and <i>Gazette</i> 1985, No. S322) | S. 5 |
| <i>Australian Government Solicitor (Consequential Amendments) Act 1984</i> | 10, 1984 | 10 Apr 1984 | S. 3: 16 Dec 1985 (e) | S. 4(1) and (3) |
| <i>Public Service Reform Act 1984</i> | 63, 1984 | 25 June 1984 | S. 152(1): 20 July 1984 (see <i>Gazette</i> 1984, No. S276) (f) | — |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1984</i> | 165, 1984 | 25 Oct 1984 | S. 3: Royal Assent (g) | Ss. 2(32) and 6(1) |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i> | 193, 1985 | 16 Dec 1985 | S. 3: (h) | S. 8 |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1986</i> | 76, 1986 | 24 June 1986 | S. 3: (j) | S. 9 |
| <i>Intelligence and Security (Consequential Amendments) Act 1986</i> | 102, 1986 | 17 Oct 1986 | 1 Feb 1987 (see s. 2 and <i>Gazette</i> 1987, No. S13) | — |
| <i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1986</i> | 168, 1986 | 18 Dec 1986 | S. 3: Royal Assent (k) | S. 5(1) |
| <i>Proceeds of Crime (Miscellaneous Amendments) Act 1987</i> | 73, 1987 | 5 June 1987 | 5 June 1987 (see s. 2) | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Crimes Legislation Amendment Act 1987</i> | 120, 1987 | 16 Dec 1987 | Ss. 10, 12, 13 and 15: 13 Jan 1988 (<i>l</i>) Ss. 11 and 14: 1 Mar 1989 (see <i>Gazette</i> 1989, No. S54) (<i>l</i>) Ss. 16–18: 19 Dec 1988 (see <i>Gazette</i> 1988, No. S384) (<i>l</i>) | — |
| <i>Statute Law (Miscellaneous Provisions) Act 1987</i> | 141, 1987 | 18 Dec 1987 | S. 3: Royal Assent (<i>m</i>) | S. 5(1), (6) and (7) |
| <i>Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989</i> | 63, 1989 | 19 June 1989 | Part 2 (ss. 3–5): 1 July 1989 (see <i>Gazette</i> 1989, No. S230) (<i>n</i>) | — |
| <i>Crimes Legislation Amendment Act 1989</i> | 108, 1989 | 30 June 1989 | S. 10: 1 July 1990 Parts 5–7 (ss. 7–35): 28 July 1989 Part 8 (ss. 36–43): 1 July 1989 Remainder: Royal Assent | S. 12 |
| <i>Crimes Legislation Amendment Act (No. 2) 1989</i> | 4, 1990 | 17 Jan 1990 | Ss. 3–19 and 23–35: 17 July 1990 (<i>o</i>) Ss. 20–22: 1 July 1990 (<i>o</i>) | Ss. 23–28, 30–33 and 35(3) |
| as amended by | | | | |
| <i>Crimes Legislation Enhancement Act 2003</i> | 41, 2003 | 3 June 2003 | Schedule 2 (items 5, 6): (<i>zn</i>) | — |
| <i>Law and Justice Legislation Amendment Act 1989</i> | 11, 1990 | 17 Jan 1990 | Parts 1 and 3 (ss. 1, 2, 6, 7): Royal Assent Ss. 8–10: 17 July 1990 Ss. 12, 15, 51(1)(b) and 51(2): 17 Jan 1990 (see s. 2(5)) Remainder: 14 Feb 1990 | — |
| <i>Defence Legislation Amendment Act 1990</i> | 75, 1990 | 22 Oct 1990 | S. 3 (in part): 15 Dec 1990 (see <i>Gazette</i> 1990, No. S316) S. 4(1): 30 June 1989 S. 5: 30 June 1990 (see s. 2(5)) Remainder: Royal Assent | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Crimes Legislation Amendment Act 1991</i> | 28, 1991 | 4 Mar 1991 | Ss. 24, 25, 27, 28 and 30(a), (c): Royal Assent (<i>p</i>) Ss. 26 and 29: 1 Apr 1991 (<i>p</i>) S. 30(b): 29 Apr 1991 (see <i>Gazette</i> 1991, No. S108) (<i>p</i>) | — |
| <i>Crimes (Investigation of Commonwealth Offences) Amendment Act 1991</i> | 59, 1991 | 9 May 1991 | Ss. 1 and 2: Royal Assent Remainder: 1 Nov 1991 (see <i>Gazette</i> 1991, No. S291) | — |
| <i>Telecommunications (Transitional Provisions and Consequential Amendments) Act 1991</i> | 99, 1991 | 27 June 1991 | Part 1 (ss. 1, 2): Royal Assent Part 2 (ss. 3–22), s. 23 and Part 4 (s. 25): 1 July 1991 Remainder: 1 Feb 1992 (see s. 2(3) and <i>Gazette</i> 1992, No. S32) | — |
| as amended by | | | | |
| <i>AUSSAT Repeal Act 1991</i> | 145, 1991 | 21 Oct 1991 | (see 145, 1991 below) | — |
| <i>Proceeds of Crime Legislation Amendment Act 1991</i> | 120, 1991 | 27 June 1991 | Ss. 1 and 2: Royal Assent Remainder: 27 Dec 1991 (see s. 2(3)) | — |
| <i>Crimes Legislation Amendment Act (No. 2) 1991</i> | 123, 1991 | 23 Aug 1991 | Ss. 5–10, Parts 3–7 (ss. 11–34), Part 9 (ss. 38, 39) and ss. 40–50: 20 Sept 1991 Part 8 (ss. 35–37): 6 Dec 1991 (see <i>Gazette</i> 1991, No. S330) S. 51: 23 Feb 1992 Remainder: Royal Assent | — |
| <i>Crimes Amendment Act 1991</i> | 140, 1991 | 27 Sept 1991 | 25 Oct 1991 | — |
| <i>AUSSAT Repeal Act 1991</i> | 145, 1991 | 21 Oct 1991 | Part 3 (ss. 8–12): 1 Feb 1992 (see <i>Gazette</i> 1992, No. S46) Remainder: Royal Assent | S. 11(2) |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Crimes Legislation Amendment Act 1992</i> | 164, 1992 | 11 Dec 1992 | Ss. 3–17: 1 Feb 1993 (<i>see Gazette</i> 1993, No. GN1) Remainder: 8 Jan 1993 | — |
| <i>Industrial Relations Reform Act 1993</i> | 98, 1993 | 22 Dec 1993 | Div. 3 of Part 7 (s. 62): 30 Mar 1994 (<i>see Gazette</i> 1994, No. S104) (<i>q</i>) | — |
| <i>Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994</i> | 65, 1994 | 30 May 1994 | 30 Nov 1994 | — |
| as amended by | | | | |
| <i>Crimes Legislation Enhancement Act 2003</i> | 41, 2003 | 3 June 2003 | Schedule 3 (item 5): (<i>zn</i>) Schedule 3 (item 42): Royal Assent | Sch. 3 (item 42) [see Table A] |
| <i>Crimes (Child Sex Tourism) Amendment Act 1994</i> | 105, 1994 | 5 July 1994 | 5 July 1994 | — |
| <i>Law and Justice Legislation Amendment Act (No. 2) 1994</i> | 141, 1994 | 28 Nov 1994 | S. 3 (items 1–10): 30 Nov 1994 (<i>r</i>) | — |
| as amended by | | | | |
| <i>Statute Law Revision Act 1996</i> | 43, 1996 | 25 Oct 1996 | Schedule 3 (items 37, 38): 28 Nov 1994 (<i>s</i>) | — |
| <i>Crimes Legislation Enhancement Act 2003</i> | 41, 2003 | 3 June 2003 | Schedule 2 (item 14): (<i>zn</i>) | — |
| <i>Australian Postal Corporation Amendment Act 1994</i> | 142, 1994 | 5 Dec 1994 | Ss. 4(a), (f), 14(c), (d) and 16(a): 1 Jan 1995 Remainder: Royal Assent | — |
| <i>Crimes and Other Legislation Amendment Act 1994</i> | 182, 1994 | 19 Dec 1994 | Ss. 8, 9, 14(a), 15(a), 16(a), 17(a), 18(b) and 20–22: Royal Assent (<i>t</i>) Ss. 10–13, 14(b), 15(b), 16(b), 17(b), 18(a) and 19: 16 Jan 1995 (<i>t</i>) | S. 9 |
| as amended by | | | | |
| <i>Statute Law Revision Act 1996</i> | 43, 1996 | 25 Oct 1996 | Schedule 3 (item 10): 19 Dec 1994 (<i>u</i>) | — |
| <i>Evidence (Transitional Provisions and Consequential Amendments) Act 1995</i> | 3, 1995 | 23 Feb 1995 | S. 14: Royal Assent (<i>v</i>) Ss. 17–20: (<i>v</i>) | S. 14 |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Crimes Amendment Act 1995</i> | 11, 1995 | 15 Mar 1995 | 15 Sept 1995 | — |
| <i>Crimes Amendment (Controlled Operations) Act 1996</i> | 28, 1996 | 8 July 1996 | 8 July 1996 | — |
| as amended by <i>Crimes Legislation Enhancement Act 2003</i> | 41, 2003 | 3 June 2003 | Schedule 3 (item 6): (zn) Schedule 3 (item 42): Royal Assent | Sch. 3 (item 42) [see Table A] |
| <i>Workplace Relations and Other Legislation Amendment Act 1996</i> | 60, 1996 | 25 Nov 1996 | Schedule 16 (item 59): (w) Schedule 19 (item 16): Royal Assent (w) | S. 2(2) and (6) (am. by 77, 1996, Sch. 3 [items 1, 2]) |
| as amended by <i>Workplace Relations and Other Legislation Amendment Act (No. 2) 1996</i> | 77, 1996 | 19 Dec 1996 | Schedule 3 (items 1, 2): (x) | — |
| <i>Crimes and Other Legislation Amendment Act 1997</i> | 20, 1997 | 7 Apr 1997 | Schedule 1 (item 9): Royal Assent (y) | — |
| <i>Law and Justice Legislation Amendment Act 1997</i> | 34, 1997 | 17 Apr 1997 | Schedule 4: Royal Assent (z) | — |
| <i>Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997</i> | 59, 1997 | 3 May 1997 | Schedule 1 (items 16–34): 1 July 1997 (za) | — |
| <i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i> | 152, 1997 | 24 Oct 1997 | Schedule 2 (items 636–638): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (zb) | — |
| <i>Crimes Amendment (Enforcement of Fines) Act 1998</i> | 49, 1998 | 29 June 1998 | 29 June 1998 | Sch. 1 (items 2, 8) [see Table A] |
| as amended by <i>Statute Law Revision Act 2006</i> | 9, 2006 | 23 Mar 2006 | Schedule 2 (item 14): (zba) | — |
| <i>Financial Sector Reform (Amendments and Transitional Provisions) Act 1998</i> | 54, 1998 | 29 June 1998 | Schedule 18 (item 45): 1 July 1998 (see <i>Gazette</i> 1998, No. S316) (zc) | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| <i>Crimes Amendment (Forensic Procedures) Act 1998</i> | 96, 1998 | 23 July 1998 | Schedule 1, Schedule 2 (items 1–11, 13–19) and Schedule 3: 23 Jan 1999 Schedule 2 (item 12): (zd) Remainder: Royal Assent | — |
| as amended by <i>Crimes Legislation Enhancement Act 2003</i> | 41, 2003 | 3 June 2003 | Schedule 3 (item 41): (zn) Schedule 3 (item 42): Royal Assent | Sch. 3 (item 42) [see Table A] |
| <i>Broadcasting Services Amendment (Online Services) Act 1999</i> | 90, 1999 | 16 July 1999 | 16 July 1999 | — |
| <i>Crimes Amendment (Fine Enforcement) Act 1999</i> | 123, 1999 | 13 Oct 1999 | 13 Oct 1999 | Sch. 1 (item 5) [see Table A] |
| <i>Public Employment (Consequential and Transitional) Amendment Act 1999</i> | 146, 1999 | 11 Nov 1999 | Schedule 1 (items 343–348): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (ze) | — |
| <i>Australian Security Intelligence Organisation Legislation Amendment Act 1999</i> | 161, 1999 | 10 Dec 1999 | Schedule 3 (items 1, 22, 23): (zf) | — |
| <i>Privacy Amendment (Office of the Privacy Commissioner) Act 2000</i> | 2, 2000 | 29 Feb 2000 | 1 July 2000 (see <i>Gazette</i> 2000, No. S229) | — |
| <i>Australian Federal Police Legislation Amendment Act 2000</i> | 9, 2000 | 7 Mar 2000 | 2 July 2000 (see <i>Gazette</i> 2000, No. S328) | Sch. 3 (items 20, 23, 34, 35) [see Table A] |
| <i>Crimes at Sea Act 2000</i> | 13, 2000 | 31 Mar 2000 | Ss. 1 and 2: Royal Assent Remainder: 31 Mar 2001 | Sch. 2 (item 11) [see Table A] |
| <i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i> | 137, 2000 | 24 Nov 2000 | Ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001 | Sch. 2 (items 418, 419) [see Table A] |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|--|--|
| <i>Crimes Amendment (Forensic Procedures) Act 2001</i> | 22, 2001 | 6 Apr 2001 | Schedule 1 (items 1, 4–77, 80–86): 20 June 2001 (see <i>Gazette</i> 2001, No. GN24) Schedule 1 (items 78, 79): (zg) Remainder: Royal Assent | — |
| as amended by | | | | |
| <i>Statute Law Revision Act 2002</i> | 63, 2002 | 3 July 2002 | Schedule 2 (item 6): (zga) | — |
| <i>Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001</i> | 24, 2001 | 6 Apr 2001 | S. 4(1), (2) and Schedule 10: (zh) Schedule 1 (items 1, 2): 4 May 2001 (zh) Schedule 51 (item 4): 15 Dec 2001 (zh) | S. 4(1) and (2) [see Table A] |
| <i>Crimes Amendment (Age Determination) Act 2001</i> | 37, 2001 | 7 May 2001 | 4 June 2001 | — |
| <i>Corporations (Repeals, Consequentials and Transitionals) Act 2001</i> | 55, 2001 | 28 June 2001 | Ss. 4–14 and Schedule 3 (item 147): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (zi) | Ss. 4–14 [see Note 1] |
| <i>National Crime Authority Legislation Amendment Act 2001</i> | 135, 2001 | 1 Oct 2001 | Schedules 1–7 and 9–12: 12 Oct 2001 (see <i>Gazette</i> 2001, No. S428) Schedule 8: 13 Oct 2001 (see <i>Gazette</i> 2001, No. S428) Remainder: Royal Assent | — |
| <i>Measures to Combat Serious and Organised Crime Act 2001</i> | 136, 2001 | 1 Oct 2001 | Ss. 1–3: Royal Assent Schedules 1 and 2: 12 Oct 2001 (see <i>Gazette</i> 2001, No. S428) Schedule 4 (item 10): [see (zj) and Note 2] Remainder: 29 Oct 2001 | Sch. 1 (items 18, 41, 48) and Sch. 4 (item 51) [see Table A] |
| <i>Cybercrime Act 2001</i> | 161, 2001 | 1 Oct 2001 | 21 Dec 2001 (see <i>Gazette</i> 2001, No. S529) | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Criminal Code Amendment (Anti-hoax and Other Measures) Act 2002</i> | 9, 2002 | 4 Apr 2002 | Schedule 1: 16 Oct 2001 (<i>zk</i>) Remainder: Royal Assent | — |
| <i>Security Legislation Amendment (Terrorism) Act 2002</i> | 65, 2002 | 5 July 2002 | Schedule 1 (items 6, 8–13): 6 July 2002 | — |
| <i>Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002</i> | 86, 2002 | 11 Oct 2002 | Ss. 1–3: Royal Assent Remainder: 1 Jan 2003 (see s. 2(1) and <i>Gazette</i> 2002, No. GN44) | — |
| <i>Crimes Amendment Act 2002</i> | 88, 2002 | 23 Oct 2002 | Schedule 1 (item 1): 12 Oct 2002 Schedule 1 (item 2): (<i>zl</i>) Remainder: Royal Assent | — |
| <i>Criminal Code Amendment (Espionage and Related Matters) Act 2002</i> | 91, 2002 | 31 Oct 2002 | S. 4: Royal Assent Schedule 1 (items 1A, 1–3) and Schedule 2 (items 3, 4): 28 Nov 2002 Schedule 2 (items 1, 2): (<i>zm</i>) | S. 4 [see Table A] S. 2(4) (am. by 100, 2005, Sch. 2 [item 10]) S. 2(5) (am. by 100, 2005, Sch. 2 [item 11]) |
| as amended by | | | | |
| <i>Statute Law Revision Act 2005</i> | 100, 2005 | 6 July 2005 | Schedule 2 (items 10, 11): (<i>zma</i>) | — |
| <i>Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002</i> | 105, 2002 | 14 Nov 2002 | Schedule 3 (item 37): 12 May 2003 (see s. 2 and <i>Gazette</i> 2002, No. GN49) | — |
| <i>Australian Crime Commission Establishment Act 2002</i> | 125, 2002 | 10 Dec 2002 | Schedule 2 (items 5–30): 1 Jan 2003 | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| <i>Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Act 2002</i> | 141, 2002 | 19 Dec 2002 | Schedules 1, 2 and Schedule 3 (items 1–22, 24–26): 16 Jan 2003 Schedule 3 (item 23): 1 Jan 2003 (see s. 2(1) and <i>Gazette</i> 2002, No. GN44) Remainder: Royal Assent | S. 4 [see Table A] |
| <i>Crimes Legislation Enhancement Act 2003</i> | 41, 2003 | 3 June 2003 | Schedule 1 (items 1–7, 7A) and Schedule 3 (items 2–4, 8–13, 37–40, 42): Royal Assent Schedule 1 (items 7B–7F): 1 Mar 2003 Schedule 1 (items 8, 9): (zn) Schedule 3 (item 16): (zn) Schedule 3 (item 17): (zn) Schedule 3 (items 18–29): (zn) | Sch. 1 (items 5, 7, 7F) and Sch. 3 (item 42) [see Table A] |
| <i>Telecommunications Interception and Other Legislation Amendment Act 2003</i> | 113, 2003 | 12 Nov 2003 | Schedule 1: 6 Feb 2004 (see <i>Gazette</i> 2004, No. S27) Remainder: Royal Assent | — |
| <i>Law and Justice Legislation Amendment Act 2004</i> | 62, 2004 | 26 May 2004 | Schedule 1 (item 13): (zo) | — |
| <i>Australian Federal Police and Other Legislation Amendment Act 2004</i> | 64, 2004 | 22 June 2004 | Schedule 2 (item 5): 1 July 2004 Schedule 3 (items 3D, 4–6, 6A, 7, 7A, 7B, 8–13, 13A, 13B, 14–16): 22 Dec 2004 | — |
| as amended by | | | | |
| <i>Statute Law Revision Act 2005</i> | 100, 2005 | 6 July 2005 | Schedule 2 (item 7): (zoa) | — |
| <i>Anti-terrorism Act 2004</i> | 104, 2004 | 30 June 2004 | 1 July 2004 | S. 4(1A) and (1B) [see Table A] |
| <i>Anti-terrorism Act (No. 2) 2004</i> | 124, 2004 | 16 Aug 2004 | Schedule 3: 17 Aug 2004 Remainder: Royal Assent | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Anti-terrorism Act (No. 3) 2004</i> | 125, 2004 | 16 Aug 2004 | Schedules 1 and 2: 13 Sept 2004 Schedule 3 (item 6): (zp) Remainder: Royal Assent | — |
| <i>Crimes Legislation Amendment (Telecommunications Offences and Other Measures) Act (No. 2) 2004</i> | 127, 2004 | 31 Aug 2004 | Schedule 1 (items 3–5, 30, 31): 1 Mar 2005 | Sch. 1 (item 30) Sch. 1 (item 31) (am. by 40, 2006, Sch. 1 [item 16]) [see Table A] |
| as amended by | | | | |
| <i>Telecommunications (Interception) Amendment Act 2006</i> | 40, 2006 | 3 May 2006 | Schedule 1 (item 16): 13 June 2006 (see F2006L01623) | — |
| <i>Australian Passports (Transitional and Consequential) Act 2005</i> | 7, 2005 | 18 Feb 2005 | Ss. 4–11 and Schedule 1: 1 July 2005 (see s. 2(1)) Remainder: Royal Assent | — |
| <i>Financial Framework Legislation Amendment Act 2005</i> | 8, 2005 | 22 Feb 2005 | S. 4 and Schedule 1 (items 122, 123, 496): Royal Assent | S. 4 and Sch. 1 (item 496) [see Table A] |
| <i>Crimes Amendment Act 2005</i> | 87, 2005 | 6 July 2005 | 6 July 2005 | — |
| <i>Criminal Code Amendment (Trafficking in Persons Offences) Act 2005</i> | 96, 2005 | 6 July 2005 | Schedules 1 and 2: 3 Aug 2005 Remainder: Royal Assent | — |
| <i>Statute Law Revision Act 2005</i> | 100, 2005 | 6 July 2005 | Schedule 1 (items 8–10): Royal Assent Schedule 1 (item 11): (zq) | — |
| <i>Intelligence Services Legislation Amendment Act 2005</i> | 128, 2005 | 4 Nov 2005 | Schedules 1–8: 2 Dec 2005 Remainder: Royal Assent | — |
| <i>Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005</i> | 129, 2005 | 8 Nov 2005 | Schedule 1 (items 2–13, 75, 76): 6 Dec 2005 | Sch. 1 (items 75, 76) [see Table A] |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| <i>Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Act 2005</i> | 136, 2005 | 15 Nov 2005 | 16 Nov 2005 | Sch. 1 (items 7, 19) [see Table A] |
| <i>Anti-Terrorism Act (No. 2) 2005</i> | 144, 2005 | 14 Dec 2005 | S. 4: Royal Assent Schedules 5 and 6: 15 Dec 2005 Schedule 7 (items 1–4): 11 Jan 2006 | S. 4 [see Table A] |
| <i>Statute Law Revision Act 2006</i> | 9, 2006 | 23 Mar 2006 | Schedule 1 (item 10): (zr) Schedule 1 (items 11, 12): Royal Assent | — |
| <i>ASIO Legislation Amendment Act 2006</i> | 54, 2006 | 19 June 2006 | Schedule 1 (item 11): 20 June 2006 | — |
| <i>Law Enforcement (AFP Professional Standards and Related Measures) Act 2006</i> | 84, 2006 | 30 June 2006 | Schedule 3 (items 33–35): 30 Dec 2006 (see s. 2(1)) | — |
| <i>Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006</i> | 86, 2006 | 30 June 2006 | Schedule 1 (items 11–31): 30 Dec 2006 (see s. 2(1)) | — |
| <i>Crimes Act Amendment (Forensic Procedures) Act (No. 1) 2006</i> | 130, 2006 | 4 Nov 2006 | 5 Nov 2006 | Sch. 1 (item 52) [see Table A] |
| <i>Judiciary Legislation Amendment Act 2006</i> | 151, 2006 | 7 Dec 2006 | 7 Dec 2006 | — |
| <i>Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006</i> | 170, 2006 | 12 Dec 2006 | Schedule 1 (items 19, 20): 13 Dec 2006 (see s. 2(1)) | — |
| <i>Crimes Amendment (Bail and Sentencing) Act 2006</i> | 171, 2006 | 12 Dec 2006 | 13 Dec 2006 | Sch. 1 (item 6) [see Table A] |
| <i>Law and Justice Legislation Amendment (Marking of Plastic Explosives) Act 2007</i> | 3, 2007 | 19 Feb 2007 | Schedules 1–3: 25 Aug 2007 Remainder: Royal Assent | — |
| <i>Migration Amendment (Employer Sanctions) Act 2007</i> | 7, 2007 | 19 Feb 2007 | Schedules 1 and 2: 19 Aug 2007 Remainder: Royal Assent | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|--|---|
| <i>Australian Citizenship (Transitionals and Consequentials) Act 2007</i> | 21, 2007 | 15 Mar 2007 | Schedules 1–3: 1 July 2007 (see s. 2(1) and F2007L01653) Remainder: Royal Assent | — |
| <i>Crimes Legislation Amendment (Miscellaneous Matters) Act 2008</i> | 70, 2008 | 1 July 2008 | Schedule 1 (item 2): Royal Assent | — |
| <i>Statute Law Revision Act 2008</i> | 73, 2008 | 3 July 2008 | Schedule 4 (items 201–207): 4 July 2008 | — |
| <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008</i> | 144, 2008 | 9 Dec 2008 | Schedule 2 (items 34–40): 10 Dec 2008 | — |
| <i>Customs Legislation Amendment (Name Change) Act 2009</i> | 33, 2009 | 22 May 2009 | Schedule 2 (items 15–19): 23 May 2009 | — |
| <i>Fair Work (State Referral and Consequential and Other Amendments) Act 2009</i> | 54, 2009 | 25 June 2009 | Schedule 5 (item 20): (zs) | — |
| <i>Federal Court of Australia Amendment (Criminal Jurisdiction) Act 2009</i> | 106, 2009 | 6 Nov 2009 | Schedule 1 (items 10–25): 4 Dec 2009 | — |
| <i>Crimes Legislation Amendment (Serious and Organised Crime) Act 2010</i> | 3, 2010 | 19 Feb 2010 | Schedule 1 (item 44) and Schedule 3 (items 1–20): Royal Assent Schedule 2 (item 9): 20 Feb 2010 | Sch. 3 (items 11–20) [see Table A] |
| <i>Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010</i> | 4, 2010 | 19 Feb 2010 | Schedule 2, Schedule 6 (items 1, 2), Schedule 10 (items 7, 8) and Schedule 11 (items 5, 6): 20 Feb 2010 Schedule 6 (item 3): (zt) | Sch. 2 (items 11, 25) and Sch. 6 (items 2, 3) [see Table A] |
| <i>Statute Law Revision Act 2010</i> | 8, 2010 | 1 Mar 2010 | Schedule 5 (item 137(a)): (zu) | — |
| <i>Crimes Amendment (Working With Children—Criminal History) Act 2010</i> | 28, 2010 | 25 Mar 2010 | 26 Mar 2010 | — |

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|---|---|
| <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> | 42, 2010 | 14 Apr 2010 | Schedule 1 (items 1, 62–71): 15 Apr 2010 Schedule 2: 12 May 2010 | Sch. 1 (items 64, 71) and Sch. 2 (item 9) [see Table A] |
| <i>Health Practitioner Regulation (Consequential Amendments) Act 2010</i> | 48, 2010 | 31 May 2010 | Schedule 1 (item 1): [see Note 3] | — |
| <i>Freedom of Information Amendment (Reform) Act 2010</i> | 51, 2010 | 31 May 2010 | Schedule 5 (items 12–26): [see (zv) and Note 4] Schedule 7: (zv) | Sch. 7 [see Note 1] |
| <i>Crimes Amendment (Royal Flying Doctor Service) Act 2010</i> | 101, 2010 | 6 July 2010 | 6 July 2010 | Sch. 1 (item 3) [see Table A] |
| <i>Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010</i> | 103, 2010 | 13 July 2010 | Schedule 6 (items 1, 49): [see Note 5] | — |

Act Notes

- (a) The *Crimes (Currency) Act 1981* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsections 2(1) and (7) of which provide as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
 - (7) The amendments of the *Crimes (Currency) Act 1981* made by this Act (other than the amendment of section 2 of that Act) shall come into operation immediately after the amendment of section 2 of that Act made by this Act comes into operation.
- (b) The *Crimes Amendment Act 1982* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (c) The *Crimes Act 1914* was amended by Part XXII (sections 60–65) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(6) of which provides as follows:
- (6) Part XVII, Division 2 of Part XVIII and Parts XXII, XXIII and LXIV shall come into operation, or shall be deemed to have come into operation, as the case requires, immediately after the commencement of section 8 of the *Crimes Amendment Act 1982*.
- (d) The *Crimes Act 1914* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1983*, subsection 2(6) of which provides as follows:
- (6) The amendments of the *Crimes Act 1914* made by this Act shall come into operation on the day on which this Act receives the Royal Assent.
- (e) The *Crimes Act 1914* was amended by section 3 only of the *Australian Government Solicitor (Consequential Amendments) Act 1984*, subsection 2(2) of which provides as follows:
- (2) If subsection 8(1) of the *Director of Public Prosecutions (Consequential Amendments) Act 1983* does not come into operation before the commencement of section 7 of the *Judiciary Amendment Act (No. 2) 1984*, the amendment of the *Crimes Act 1914* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, immediately after the commencement of that subsection.
- (f) The *Crimes Act 1914* was amended by section 152(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.
- (g) The *Crimes Act 1914* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(9) of which provides as follows:
- (9) The amendments of the *Crimes Act 1914* made by this Act shall come into operation on the day on which this Act receives the Royal Assent.
- (h) The *Crimes Act 1914* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsections 2(1) and (6) of which provide as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
 - (6) Section 8 of this Act and the amendments of section 18A, and of subsection 20AB(1), of the *Crimes Act 1914* made by this Act shall come into operation immediately after the amendment of section 2 of the *Crimes Amendment Act 1982* made by this Act comes into operation.
- (i) The *Crimes Act 1914* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1986*, subsections 2(1) and (6) of which provide as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
 - (6) The amendment of paragraph 8A(a) of the *Crimes Act 1914* made by this Act shall come into operation on a day to be fixed by Proclamation.

Act Notes

In pursuance of subsection 2(6) the date fixed was 1 October 1986 (see *Gazette* 1986, No. S471).

- (k) The *Crimes Act 1914* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (l) The *Crimes Act 1914* was amended by sections 10–18 only of the *Crimes Legislation Amendment Act 1987*, subsections 2(1) and (6) of which provide as follows:
- (1) Sections 11, 14, 16, 17, 18, 47, 70, 71, 72, 73, 74 and 75 and paragraph 69(b) shall come into operation on a day or days to be fixed by Proclamation.
 - (6) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.
- (m) The *Crimes Act 1914* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (n) The *Crimes Act 1914* was amended by Part 2 (sections 3–5) only of the *Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on a day or days to be fixed by Proclamation.
- (o) The *Crimes Act 1914* was amended by sections 3–35 only of the *Crimes Legislation Amendment Act (No. 2) 1989*, subsections 2(2), (13) and (14) of which provide as follows:
- (2) Sections 20, 21 and 22 commence immediately after section 10 of the *Crimes Legislation Amendment Act 1989* commences.
 - (13) Subject to subsection (14), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
 - (14) If a provision referred to in subsection (13) does not commence under that subsection within the period of 6 months beginning on the day it receives the Royal Assent, it commences on the first day after the end of that period.
- (p) The *Crimes Act 1914* was amended by sections 24–30 only of the *Crimes Legislation Amendment Act 1991*, subsections 2(1)–(3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) Section 23, paragraph 30(b), subsection 61(2) and sections 62, 63, 67 and 73 commence on a day to be fixed by Proclamation, being the day on which Schedule 1(3) to the *State Drug Crime Commission (Amendment) Act 1990* of New South Wales commences.
 - (3) Sections 26, 29 and 43 commence 28 days after the day on which this Act receives the Royal Assent.
- (q) The *Crimes Act 1914* was amended by Division 3 of Part 7 (section 62) only of the *Industrial Relations Reform Act 1993*, subsection 2(4) of which provides as follows:
- (4) Subject to subsection (5), Divisions 2, 3 and 4 of Part 7 commence on a day to be fixed by Proclamation.
- (r) The *Crimes Act 1914* was amended by section 3 (items 1–10) only of the *Law and Justice Legislation Amendment Act (No. 2) 1994*, subsection 2(2)(b) of which provides as follows:
- (b) if paragraph (a) does not apply—those items commence immediately after the commencement of the *Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994*.

The *Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994* came into operation on 30 November 1994.

Act Notes

- (s) The *Law and Justice Legislation Amendment Act (No. 2) 1994* was amended by Schedule 3 (items 37, 38) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (t) The *Crimes Act 1914* was amended by sections 8–22 only of the *Crimes and Other Legislation Amendment Act 1994*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) Sections 10, 11, 12 and 13, paragraphs 14(b), 15(b), 16(b), 17(b) and 18(a) and section 19 commence on the 28th day after the day on which this Act receives the Royal Assent.
- (u) The *Crimes and Other Legislation Amendment Act 1994* was amended by Schedule 3 (item 10) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (v) The *Crimes Act 1914* was amended by sections 14 and 17–20 only of the *Evidence (Transitional Provisions and Consequential Amendments) Act 1995*, subsections 2(1) and (6)–(9) of which provide as follows:
- (1) This Part and Parts 2 and 3 commence on the day on which this Act receives the Royal Assent.
 - (6) Section 17 of this Act commences:
 - (a) on the day on which section 114 of the *Evidence Act 1995* commences; or
 - (b) on a day fixed by Proclamation;whichever is earlier.
Section 114 commenced on 18 April 1995.
 - (7) Section 18 of this Act commences:
 - (a) on the day on which section 115 of the *Evidence Act 1995* commences; or
 - (b) on a day fixed by Proclamation;whichever is earlier.
Section 115 commenced on 18 April 1995.
 - (8) Section 19 of this Act commences on the day on which section 139 of the *Evidence Act 1995* commences.
Section 139 commenced on 18 April 1995.
 - (9) Section 20 of this Act commences on the day on which section 85 of the *Evidence Act 1995* commences.
Section 85 commenced on 18 April 1995.
- (w) The *Crimes Act 1914* was amended by Schedule 16 (item 59) and Schedule 19 (item 16) only of the *Workplace Relations and Other Legislation Amendment Act 1996*, subsections 2(1)–(3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) Subject to subsection (3), the items of the Schedules, other than Schedule 5, item 1 of Schedule 9, items 2 and 3 of Schedule 12, item 90 of Schedule 16 and the items of Schedule 19, commence on a day or days to be fixed by Proclamation.
 - (3) If an item of a Schedule does not commence under subsection (2) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

Act Notes

- (x) The *Workplace Relations and Other Legislation Amendment Act 1996* was amended by Schedule 3 (items 1 and 2) only of the *Workplace Relations and Other Legislation Amendment Act (No. 2) 1996*, subsection 2(4) of which provides as follows:
- (4) The items of Schedule 3 are taken to have commenced immediately after the *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent.
- The *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent on 25 November 1996.
- (y) The *Crimes Act 1914* was amended by Schedule 1 (item 9) only of the *Crimes and Other Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (z) The *Crimes Act 1914* was amended by Schedule 4 only of the *Law and Justice Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (za) The *Crimes Act 1914* was amended by Schedule 1 (items 16–34) only of the *Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997*, subsection 2(2)(d) of which provides as follows:
- (2) The following provisions commence on 1 July 1997:
- (d) Schedule 1;
- (zb) The *Crimes Act 1914* was amended by Schedule 2 (items 636–638) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (zba) Subsection 2(1) (item 29) of the *Statute Law Revision Act 2006* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

| Column 1 | Column 2 | Column 3 |
|-------------------------|---|--------------|
| Provision(s) | Commencement | Date/Details |
| 29. Schedule 2, item 14 | Immediately after the time specified in the <i>Crimes Amendment (Enforcement of Fines) Act 1998</i> for the commencement of item 3 of Schedule 1 to that Act. | 29 June 1998 |

- (zc) The *Crimes Act 1914* was amended by Schedule 18 (item 45) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act 1998*, subsection 2(2)(p) of which provides as follows:
- (2) The following provisions of this Act commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*:
- (p) Schedule 18, other than the items amending the *Australian Prudential Regulation Authority Act 1998*.
- (zd) Subsection 2(2) of the *Crimes Amendment (Forensic Procedures) Act 1998* provides as follows:
- (2) Item 12 of Schedule 2 is taken to have commenced immediately after the commencement of the *Crimes Amendment Act 1995*.

The *Crimes Amendment Act 1995* came into operation on 15 September 1995.

Act Notes

(ze) The *Crimes Act 1914* was amended by Schedule 1 (items 343–348) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:

- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.

(zf) The *Crimes Act 1914* was amended by Schedule 3 (items 1, 22 and 23) only of the *Australian Security Intelligence Organisation Legislation Amendment Act 1999*, subsection 2(2) of which provides as follows:

- (2) Subject to subsections (3) to (6), Schedule 3 commences immediately after the commencement of the other Schedules to this Act.

The other Schedules to this Act commenced on Royal Assent.

(zg) Subsection 2(4) the *Crimes Amendment (Forensic Procedures) Act 2001* provides as follows:

- (4) Item 78 of Schedule 1 is taken to have commenced immediately before item 77 of that Schedule. Item 79 of Schedule 1 is taken to have commenced immediately before item 81 of that Schedule.

(zga) Subsection 2(1) (item 35) of the *Statute Law Revision Act 2002* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|------------------------|---|--------------|
| 35. Schedule 2, item 6 | Immediately after the time specified in the <i>Crimes Amendment (Forensic Procedures) Act 2001</i> for the commencement of item 6 of Schedule 1 to that Act | 20 June 2001 |

(zh) The *Crimes Act 1914* was amended by Schedule 1 (items 1 and 2), Schedule 10 and Schedule 51 (item 4) only of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, subsections 2(1)(a), (2) and (3) of which provide as follows:

- (1) Subject to this section, this Act commences at the later of the following times:
 - (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
- (2) Schedule 1 commences on the 28th day after the day on which this Act receives the Royal Assent.
- (3) Schedules 21 and 51 commence on the day mentioned in subsection 2.2(2) of the *Criminal Code*.

Item 15 commenced on 24 May 2001.

(zi) The *Crimes Act 1914* was amended by Schedule 3 (item 147) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:

- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

(zj) Subsection 2(4) of the *Measures to Combat Serious and Organised Crime Act 2001* provides as follows:

- (4) Item 10 of Schedule 4 commences on a day to be fixed by Proclamation.
[see Note 2]

(zk) Subsection 2(1) (item 2) of the *Criminal Code Amendment (Anti-hoax and Other Measures) Act 2002* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Act Notes

| Provision(s) | Commencement | Date/Details |
|---------------------|---|---------------------|
| 2. Schedule 1 | 2 pm (by legal time in the Australian Capital Territory) on 16 October 2001 | 16 October 2001 |

(zl) Subsection 2(1) (item 3) of the *Crimes Amendment Act 2002* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|-----------------------|---|---------------------|
| 3. Schedule 1, item 2 | Immediately after the commencement of Schedule 1 to the <i>Australian Crime Commission Establishment Act 2002</i> | 1 January 2003 |

(zm) Subsections 2(1) (items 5 and 6), (4) and (5) of the *Criminal Code Amendment (Espionage and Related Matters) Act 2002* provide as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|-----------------------|---|---------------------|
| 5. Schedule 2, item 1 | The 28th day after the day on which this Act receives the Royal Assent, subject to subsection (4) | Does not commence |
| 6. Schedule 2, item 2 | Immediately after the commencement of item 1 of Schedule 1, subject to subsection (5) | 28 November 2002 |

- (4) If item 6 of Schedule 1 to the *Security Legislation Amendment (Terrorism) Act 2002* commences before item 1 of Schedule 1 to this Act, then item 1 of Schedule 2 to this Act does not commence at all.

- (5) If item 6 of Schedule 1 to the *Security Legislation Amendment (Terrorism) Act 2002* does not commence before item 1 of Schedule 1 to this Act, then item 2 of Schedule 2 to this Act does not commence at all.

(zma) Subsection 2(1) (item 31) of the *Statute Law Revision Act 2005* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|---------------------------------|--|---------------------|
| 31. Schedule 2, items 10 and 11 | Immediately after the time specified in the <i>Criminal Code Amendment (Espionage and Related Matters) Act 2002</i> for the commencement of section 2 of that Act. | 31 October 2002 |

(zn) Subsection 2(1) (items 3, 4, 7, 9, 13, 14, 17–19 and 26) of the *Crimes Legislation Enhancement Act 2003* provide as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|-----------------------|---|---------------------|
| 3. Schedule 1, item 8 | Immediately after the commencement of section 6 of the <i>Crimes Legislation Amendment Act (No. 2) 1989</i> | 17 July 1990 |
| 4. Schedule 1, item 9 | Immediately after the commencement of section 9 of the <i>Crimes Legislation Amendment Act (No. 2) 1989</i> | 17 July 1990 |

Act Notes

| Provision(s) | Commencement | Date/Details |
|--------------------------------|--|---------------------|
| 7. Schedule 2, items 5 and 6 | Immediately after the <i>Crimes Legislation Amendment Act (No. 2) 1989</i> received the Royal Assent | 17 January 1990 |
| 9. Schedule 2, item 14 | Immediately after the <i>Law and Justice Legislation Amendment Act (No. 2) 1994</i> received the Royal Assent | 28 November 1994 |
| 13. Schedule 3, item 5 | Immediately after the <i>Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994</i> received the Royal Assent | 30 May 1994 |
| 14. Schedule 3, item 6 | Immediately after the <i>Crimes Amendment (Controlled Operations) Act 1996</i> received the Royal Assent | 8 July 1996 |
| 17. Schedule 3, item 16 | Immediately after the commencement of the <i>Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994</i> | 30 November 1994 |
| 18. Schedule 3, item 17 | Immediately after the commencement of the <i>Crimes Amendment (Age Determination) Act 2001</i> | 4 June 2001 |
| 19. Schedule 3, items 18 to 29 | Immediately after the commencement of item 1 of Schedule 1 to the <i>Crimes Amendment (Forensic Procedures) Act 1998</i> | 23 January 1999 |
| 26. Schedule 3, item 41 | Immediately after the <i>Crimes Amendment (Forensic Procedures) Act 1998</i> received the Royal Assent | 23 July 1998 |

(zo) Subsection 2(1) (item 7) of the *Law and Justice Legislation Amendment Act 2004* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|------------------------|---|---------------------|
| 7. Schedule 1, item 13 | Immediately after the commencement of item 17 of Schedule 1 to the <i>Measures to Combat Serious and Organised Crime Act 2001</i> . | 12 October 2001 |

(zoa) Subsection 2(1) (item 28) of the *Statute Law Revision Act 2005* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|------------------------|--|---------------------|
| 28. Schedule 2, item 7 | Immediately after the time specified in the <i>Australian Federal Police and Other Legislation Amendment Act 2004</i> for the commencement of item 16 of Schedule 3 to that Act. | 22 December 2004 |

Act Notes

(zp) Subsection 2(1) (item 5) of the *Anti-terrorism Act (No. 3) 2004* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|-----------------------|---|---|
| 5. Schedule 3, item 6 | The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 3 to the <i>Australian Federal Police and Other Legislation Amendment Act 2004</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur. | 22 December 2004 (paragraph (b) applies) |

(zq) Subsection 2(1) (item 7) of the *Statute Law Revision Act 2005* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|------------------------|--|---------------------|
| 7. Schedule 1, item 11 | Immediately after the commencement of items 1 to 5 of Schedule 3 to the <i>Anti-terrorism Act (No. 3) 2004</i> . | 16 August 2004 |

(zr) Subsection 2(1) (item 7) of the *Statute Law Revision Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|------------------------|---|---------------------|
| 7. Schedule 1, item 10 | Immediately after the commencement of the <i>Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994</i> . | 30 November 1994 |

(zs) Subsection 2(1) (item 11) of the *Fair Work (State Referral and Consequential and Other Amendments) Act 2009* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|-------------------------------|---|-------------------------------|
| 11. Schedule 5, items 1 to 30 | Immediately after the commencement of Part 2-4 of the <i>Fair Work Act 2009</i> . | 1 July 2009 (see F2009L02563) |

(zt) Subsection 2(1) (item 11) of the *Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|------------------------|--|--|
| 11. Schedule 6, item 3 | Immediately after the commencement of subsection 369(4) of the <i>Criminal Procedure Act 2009</i> of Victoria. | 1 January 2010 (see <i>Vict. Gazette</i> No. G50 p3215) |

Act Notes

(zu) Subsection 2(1) (items 31 and 38) of the *Statute Law Revision Act 2010* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|-------------------------------|--|---------------------|
| 31. Schedule 5, items 1 to 51 | The day this Act receives the Royal Assent. | 1 March 2010 |
| 38. Schedule 5, Parts 2 and 3 | Immediately after the provision(s) covered by table item 31. | 1 March 2010 |

(zv) Subsection 2(1) (item 7) of the *Freedom of Information Amendment (Reform) Act 2010* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|---------------------|--|---------------------|
| 7. Schedules 4 to 7 | Immediately after the commencement of section 3 of the <i>Australian Information Commissioner Act 2010</i> . However, if section 3 of the <i>Australian Information Commissioner Act 2010</i> does not commence, the provision(s) do not commence at all. | [see Note 4] |

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------------|---|
| Part I | |
| S. 2 | am. No. 9, 1926 rs. No. 11, 1959; No. 84, 1960 am. No. 33, 1973 rep. No. 216, 1973 |
| S. 3 | am. No. 9, 1926; No. 30, 1932; No. 11, 1959; No. 84, 1960; No. 216, 1973; No. 155, 1979; No. 70, 1980; No. 67, 1982; Nos. 63 and 165, 1984; No. 141, 1987; No. 63, 1989; No. 4, 1990; No. 28, 1991; No. 99, 1991 (as am. by No. 145, 1991); Nos. 120 and 140, 1991; No. 65, 1994; No. 28, 1996; No. 152, 1997; No. 96, 1998; No. 146, 1999; Nos. 9 and 137, 2000; Nos. 24 and 136, 2001; Nos. 86 and 125, 2002; Nos. 64, 104 and 125, 2004; No. 129, 2005; Nos. 86 and 171, 2006; No. 3, 2007; No. 144, 2008; Nos. 33 and 106, 2009; Nos. 3 and 42, 2010 |
| S. 3AA..... | ad. No. 64, 2004 |
| S. 3A..... | ad. No. 84, 1960 |
| S. 3B..... | ad. No. 67, 1982 am. No. 193, 1985; No. 4, 1990; No. 34, 1997; No. 49, 1998 (as am. by No. 9, 2006) |
| S. 3BA..... | ad. No. 24, 2001 |
| S. 3BB..... | ad. No. 24, 2001 rep. No. 24, 2001 |
| Part IAA | |
| Heading to Part 1AA..... | rep. No. 41, 2003 |
| Heading to Part IAA..... | ad. No. 41, 2003 rs. No. 144, 2005 |
| Part 1AA | ad. No. 65, 1994 |
| Division 1 | |
| S. 3C..... | ad. No. 65, 1994 am. No. 141, 1994; No. 161, 2001; No. 64, 2004; No. 144, 2005; Nos. 4 and 42, 2010 |
| S. 3CA | ad. No. 141, 1994 am. No. 4, 2010 |
| S. 3D..... | ad. No. 65, 1994 am. No. 64, 2004; No. 144, 2005 |
| Division 2 | |
| S. 3E..... | ad. No. 65, 1994 am. No. 136, 2001; No. 86, 2002 |
| S. 3F | ad. No. 65, 1994 am. No. 86, 2002; No. 4, 2010 |
| Ss. 3G, 3H..... | ad. No. 65, 1994 |
| S. 3J..... | ad. No. 65, 1994 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------------|--|
| S. 3K..... | ad. No. 65, 1994 am. No. 161, 2001; No. 4, 2010 |
| S. 3L..... | ad. No. 65, 1994 am. No. 161, 2001; No. 84, 2006; No. 4, 2010 |
| S. 3LAA..... | ad. No. 4, 2010 |
| S. 3LA..... | ad. No. 161, 2001 rs. No. 4, 2010 |
| S. 3LB..... | ad. No. 161, 2001 am. No. 4, 2010 |
| S. 3M..... | ad. No. 65, 1994 rs. No. 4, 2010 |
| S. 3N..... | ad. No. 65, 1994 am. No. 161, 2001; No. 4, 2010 |
| S. 3P..... | ad. No. 65, 1994 am. No. 41, 2003 |
| S. 3Q..... | ad. No. 65, 1994 |
| S. 3R..... | ad. No. 65, 1994 am. No. 136, 2001 |
| S. 3S..... | ad. No. 65, 1994 am. No. 9, 2006 |
| Division 3 | |
| Ss. 3T, 3U..... | ad. No. 65, 1994 |
| Division 3A | |
| Div. 3A of Part IAA..... | ad. No. 144, 2005 |
| Subdivision A | |
| S. 3UA..... | ad. No. 144, 2005 |
| Subdivision B | |
| Ss. 3UB–3UE..... | ad. No. 144, 2005 |
| Heading to s. 3UF..... | rs. No. 4, 2010 |
| S. 3UF..... | ad. No. 144, 2005 am. No. 4, 2010 |
| S. 3UG..... | ad. No. 144, 2005 rep. No. 4, 2010 |
| S. 3UH..... | ad. No. 144, 2005 |
| Subdivision C | |
| S. 3UI..... | ad. No. 144, 2005 |
| S. 3UJ..... | ad. No. 144, 2005 am. No. 8, 2010 |
| Subdivision D | |
| S. 3UK..... | ad. No. 144, 2005 am. No. 4, 2010 |
| Division 4 | |
| S. 3V..... | ad. No. 65, 1994 am. No. 24, 2001 |
| S. 3W..... | ad. No. 65, 1994 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------------|---|
| S. 3X | ad. No. 65, 1994 am. No. 41, 2003 |
| S. 3Y | ad. No. 65, 1994 am. No. 106, 2009 |
| S. 3Z | ad. No. 65, 1994 |
| Ss. 3ZA–3ZG | ad. No. 65, 1994 |
| S. 3ZH | ad. No. 65, 1994 am. No. 96, 1998; No. 136, 2001; No. 41, 2003 |
| S. 3ZI | ad. No. 65, 1994 am. No. 141, 1994 (as am. by No. 43, 1996) |
| S. 3ZJ | ad. No. 65, 1994 am. No. 141, 1994 (as am. by No. 43, 1996); No. 96, 1998; No. 41, 2003 |
| S. 3ZK | ad. No. 65, 1994 am. No. 141, 1994 |
| S. 3ZL | ad. No. 65, 1994 am. Nos. 22 and 24, 2001; No. 41, 2003 |
| S. 3ZM | ad. No. 65, 1994 am. No. 3, 1995; No. 41, 2003 |
| S. 3ZN | ad. No. 65, 1994 am. No. 141, 1994 |
| S. 3ZO | ad. No. 65, 1994 am. No. 3, 1995 |
| Ss. 3ZP, 3ZQ | ad. No. 65, 1994 |
| Division 4A | |
| Div. 4A of Part 1AA | ad. No. 37, 2001 |
| Subdivision A | |
| S. 3ZQA | ad. No. 37, 2001 am. No. 64, 2004 |
| Subdivision B | |
| S. 3ZQB | ad. No. 37, 2001 |
| S. 3ZQC | ad. No. 37, 2001 am. No. 41, 2003 |
| Ss. 3ZQD, 3ZQE | ad. No. 37, 2001 |
| Subdivision C | |
| S. 3ZQF | ad. No. 37, 2001 |
| Subdivision D | |
| S. 3ZQG | ad. No. 37, 2001 |
| Subdivision E | |
| Ss. 3ZQH, 3ZQI | ad. No. 37, 2001 |
| Subdivision F | |
| Ss. 3ZQJ, 3ZQK | ad. No. 37, 2001 |

Table of Amendments

| ad. = added or inserted | am. = amended | rep. = repealed | rs. = repealed and substituted |
|-------------------------|---------------|-----------------|--------------------------------|
|-------------------------|---------------|-----------------|--------------------------------|

| Provision affected | How affected |
|------------------------------|---|
| Division 4B | |
| Div. 4B of Part IAA..... | ad. No. 144, 2005 |
| Subdivision A | |
| S. 3ZQL | ad. No. 144, 2005 |
| Subdivision B | |
| S. 3ZQM | ad. No. 144, 2005 |
| Subdivision C | |
| Ss. 3ZQN–3ZQT | ad. No. 144, 2005 |
| Division 4C | |
| Div. 4C of Part IAA | ad. No. 4, 2010 |
| Subdivision A | |
| Ss. 3ZQU–3ZQW | ad. No. 4, 2010 |
| Subdivision B | |
| S. 3ZQX | ad. No. 4, 2010 |
| Subdivision C | |
| Ss. 3ZQY, 3ZQZ | ad. No. 4, 2010 |
| Subdivision D | |
| Ss. 3ZQZA, 3ZQZB | ad. No. 4, 2010 |
| Division 5 | |
| Ss. 3ZR–3ZU | ad. No. 65, 1994 |
| S. 3ZV | ad. No. 65, 1994 rep. No. 4, 2010 |
| S. 3ZW | ad. No. 65, 1994 am. No. 141, 1994 rs. No. 4, 2010 |
| S. 3ZX | ad. No. 65, 1994 |
| S. 3ZY | ad. No. 65, 1994 rep. No. 96, 1998 |
| Part IA | |
| Heading to Part IA | ad. No. 84, 1960 |
| S. 4 | rs. No. 11, 1995 rep. No. 24, 2001 |
| Subhead. to s. 4AAA(4) | rep. No. 136, 2005 |
| S. 4AAA | ad. No. 22, 2001 am. No. 136, 2005 |
| S. 4AAB | ad. No. 22, 2001 |
| S. 4A | ad. No. 120, 1987 |
| S. 4AA | ad. No. 164, 1992 am. No. 20, 1997 |
| S. 4AB | ad. No. 164, 1992 am. No. 54, 1998; No. 55, 2001 |
| S. 4B | ad. No. 120, 1987 am. No. 108, 1989; No. 28, 1991; No. 164, 1992 |
| S. 4C | ad. No. 120, 1987 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------|---|
| S. 4D..... | ad. No. 120, 1987 am. No. 24, 2001 |
| Ss. 4E–4H..... | ad. No. 120, 1987 |
| S. 4J..... | ad. No. 120, 1987 am. No. 108, 1989; No. 164, 1992; Nos. 65 and 91, 2002; No. 41, 2003; No. 144, 2005 |
| S. 4JA | ad. No. 41, 2003 |
| S. 4K..... | ad. No. 120, 1987 |
| S. 4L | ad. No. 28, 1991 |
| Ss. 4M, 4N..... | ad. No. 11, 1995 |
| S. 5 | am. No. 9, 1926; No. 84, 1960; No. 153, 1982; No. 120, 1987 rep. No. 24, 2001 |
| S. 6 | am. No. 84, 1960; No. 67, 1982; No. 120, 1987; No. 73, 2008 |
| S. 7 | am. No. 9, 1926; No. 84, 1960; No. 120, 1987; No. 11, 1995; No. 96, 1998 rep. No. 24, 2001 |
| S. 7A..... | ad. No. 54, 1920 am. No. 84, 1960; No. 93, 1966; No. 216, 1973; No. 67, 1982; No. 120, 1987; No. 108, 1989 rep. No. 24, 2001 |
| S. 8 | rep. No. 65, 1994 |
| S. 8A..... | ad. No. 9, 1926 am. No. 84, 1960; No. 76, 1986; No. 120, 1987 rep. No. 65, 1994 |
| S. 9 | am. No. 9, 1926; No. 84, 1960; No. 67, 1982; No. 120, 1991; No. 73, 2008 |
| S. 9A..... | ad. No. 120, 1991 am. No. 152, 1997; No. 86, 2002; No. 8, 2005 |
| S. 9B | ad. No. 120, 1991 am. No. 86, 2002; No. 8, 2005 |
| S. 10 | am. No. 9, 1926; No. 84, 1960; No. 168, 1986; No. 120, 1987; No. 28, 1991 rep. No. 65, 1994 |
| Ss. 10A–10E..... | ad. No. 140, 1991 rep. No. 65, 1994 |
| S. 11 | am. No. 84, 1960 rep. No. 120, 1987 |
| S. 12 | am. No. 80, 1950; No. 67, 1982 rep. No. 120, 1987 |
| S. 12A..... | ad. No. 9, 1926 am. No. 84, 1960; No. 93, 1966; No. 33, 1973; No. 67, 1982 rep. No. 120, 1987 |
| S. 14 | am. No. 9, 1926; No. 67, 1982 rep. No. 24, 2001 |
| S. 15 | am. No. 67, 1982; No. 73, 2008 |
| S. 15AA..... | ad. No. 104, 2004 am. No. 124, 2004; No. 171, 2006 |
| S. 15AB..... | ad. No. 171, 2006 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------------------|--|
| S. 15A (formerly s. 18A) | am. No. 98, 1993; No. 60, 1996; No. 49, 1998; No. 123, 1999; No. 151, 2006; No. 106, 2009 |
| S. 15B (formerly s. 21)..... | am. No. 164, 1992; No. 4, 2010 |
| S. 15C (formerly s. 21A) | am. No. 164, 1992 |
| S. 15D (formerly s. 21C)..... | rep. No. 24, 2001 |
| S. 15E (formerly s. 22) | |
| S. 15F (formerly s. 23) | |
| S. 15FA..... | ad. No. 96, 1998 rep. No. 22, 2001 |
| Part IAB | |
| Heading to Part 1AB | rep. No. 136, 2001 |
| Heading to Part IAB | ad. No. 136, 2001 rs. No. 3, 2010 |
| Part 1AB | ad. No. 28, 1996 |
| Part IAB | rs. No. 3, 2010 |
| Division 1 | |
| S. 15G..... | ad. No. 28, 1996 am. Nos. 135 and 136, 2001; No. 125, 2002; No. 86, 2006 rs. No. 3, 2010 |
| S. 15GA | ad. No. 136, 2001 rs. No. 3, 2010 |
| Ss. 15GB–15GD | ad. No. 3, 2010 |
| S. 15GE | ad. No. 3, 2010 am. No. 42, 2010 |
| Ss. 15GF, 15GG | ad. No. 3, 2010 |
| Division 2 | |
| Subdivision A | |
| Ss. 15GH–15GN..... | ad. No. 3, 2010 |
| Subdivision B | |
| Ss. 15GO–15GS | ad. No. 3, 2010 |
| Subdivision C | |
| Ss. 15GT–15GX | ad. No. 3, 2010 |
| Subdivision D | |
| Ss. 15GY, 15GZ | ad. No. 3, 2010 |
| S. 15H..... | ad. No. 28, 1996 rs. No. 136, 2001 am. Nos. 62 and 64, 2004 rs. No. 3, 2010 |
| Div. 2A of Part IAB..... | ad. No. 136, 2001 rep. No. 3, 2010 |
| Division 3 | |
| Subdivision A | |
| S. 15HA | ad. No. 136, 2001 rs. No. 3, 2010 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|-------------------------|--|
| Heading to s. 15HB..... | rs. No. 64, 2004; No. 3, 2010 |
| S. 15HB | ad. No. 136, 2001 am. Nos. 64 and 127, 2004; No. 129, 2005; No. 9, 2006 rs. No. 3, 2010 |
| Ss. 15HC–15HG | ad. No. 3, 2010 |
| Subdivision B | |
| Ss. 15HH–15HJ | ad. No. 3, 2010 |
| Division 4 | |
| Ss. 15HK–15HY | ad. No. 3, 2010 |
| Division 5 | |
| S. 15HZ..... | ad. No. 3, 2010 |
| S. 15I | ad. No. 28, 1996 rs. No. 136, 2001 rep. No. 3, 2010 |
| Ss. 15IA–15ID..... | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15J..... | ad. No. 28, 1996 am. No. 9, 2000 rs. No. 136, 2001 am. No. 125, 2002; No. 86, 2006 rs. No. 3, 2010 |
| Part IAC | |
| Part IAC | ad. No. 136, 2001 rs. No. 3, 2010 |
| Division 1 | |
| S. 15K | ad. No. 28, 1996 rs. No. 3, 2010 |
| Division 2 | |
| Ss. 15KA–15KH | ad. No. 3, 2010 |
| Division 3 | |
| Ss. 15KI–15KO | ad. No. 3, 2010 |
| Division 4 | |
| Ss. 15KP–15KW | ad. No. 3, 2010 |
| Division 5 | |
| Ss. 15KX–15KZ | ad. No. 3, 2010 |
| S. 15L | ad. No. 28, 1996 rs. No. 3, 2010 |
| S. 15LA | ad. No. 3, 2010 |
| Division 6 | |
| Subdivision A | |
| Ss. 15LB, 15LC | ad. No. 3, 2010 |
| Subdivision B | |
| Ss. 15LD–15LG | ad. No. 3, 2010 |
| Division 7 | |
| S. 15LH | ad. No. 3, 2010 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|-------------------------|--|
| Part IACA | |
| Part IACA | ad. No. 3, 2010 |
| Division 1 | |
| S. 15M | ad. No. 28, 1996 am. No. 136, 2001 rs. No. 3, 2010 |
| Ss. 15MA–15MC | ad. No. 3, 2010 |
| Division 2 | |
| Ss. 15MD–15MU | ad. No. 3, 2010 |
| Division 3 | |
| S. 15MW | ad. No. 3, 2010 |
| Division 4 | |
| S. 15MX | ad. No. 3, 2010 |
| S. 15N | ad. No. 28, 1996 am. Nos. 135 and 136, 2001; No. 125, 2002; No. 86, 2006; No. 33, 2009 rep. No. 3, 2010 |
| Note to s. 15N(4) | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15NA | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15O | ad. No. 28, 1996 rep. No. 3, 2010 |
| S. 15OA | ad. No. 136, 2001 am. No. 125, 2002; No. 86, 2006 rep. No. 3, 2010 |
| Ss. 15OB, 15OC | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15P | ad. No. 28, 1996 am. No. 136, 2001 rep. No. 3, 2010 |
| S. 15PA | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15Q | ad. No. 28, 1996 am. No. 136, 2001; No. 125, 2002; No. 86, 2006; No. 33, 2009 rep. No. 3, 2010 |
| S. 15R | ad. No. 28, 1996 am. No. 9, 2000; No. 135, 2001 rs. No. 136, 2001 am. No. 125, 2002; No. 86, 2006 rep. No. 3, 2010 |
| Heading to s. 15S | rs. No. 136, 2001 rep. No. 3, 2010 |
| S. 15S | ad. No. 28, 1996 am. No. 9, 2000; No. 136, 2001 rep. No. 3, 2010 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|----------------------|---|
| Ss. 15T, 15U..... | ad. No. 28, 1996 am. Nos. 135 and 136, 2001; No. 125, 2002; No. 86, 2006 rep. No. 3, 2010 |
| Ss. 15UA, 15UB..... | ad. No. 136, 2001 am. No. 125, 2002; No. 86, 2006 rep. No. 3, 2010 |
| Ss. 15UC, 15UD | ad. No. 136, 2001 rep. No. 3, 2010 |
| Ss. 15V–15X..... | ad. No. 28, 1996 am. No. 24, 2001 rep. No. 3, 2010 |
| S. 15XA..... | ad. No. 136, 2001 am. No. 125, 2002; No. 113, 2003; Nos. 87 and 100, 2005; No. 86, 2006; No. 33, 2009 rep. No. 3, 2010 |
| Ss. 15XB–15XF | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15XG | ad. No. 136, 2001 am. No. 87, 2005 rep. No. 3, 2010 |
| S. 15XH | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15XI..... | ad. No. 136, 2001 am. No. 87, 2005 rep. No. 3, 2010 |
| Ss. 15XJ–15XM..... | ad. No. 136, 2001 rep. No. 3, 2010 |
| S. 15XMA..... | ad. No. 87, 2005 rep. No. 3, 2010 |
| Ss. 15XN–15XW..... | ad. No. 136, 2001 rep. No. 3, 2010 |
| Part IAD | |
| Part IAD | ad. No. 136, 2001 |
| Division 1 | |
| S. 15Y | ad. No. 136, 2001 am. No. 127, 2004; No. 96, 2005; No. 7, 2007; No. 42, 2010 |
| S. 15YA | ad. No. 136, 2001 |
| Division 2 | |
| Ss. 15YB–15YD | ad. No. 136, 2001 |
| Division 3 | |
| Ss. 15YE–15YH | ad. No. 136, 2001 |
| Division 4 | |
| Ss. 15YI–15YL | ad. No. 136, 2001 |
| Division 5 | |
| Ss. 15YM, 15YN | ad. No. 136, 2001 |
| Division 6 | |
| Ss. 15YO–15YS..... | ad. No. 136, 2001 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------------------|--|
| S. 15YT..... | ad. No. 136, 2001 rs. No. 42, 2010 |
| Part IAE | |
| Part IAE | ad. No. 136, 2005 |
| S. 15YU | ad. No. 136, 2005 am. No. 54, 2006; No. 3, 2007 |
| Ss. 15YV–15YZ | ad. No. 136, 2005 |
| Ss. 15YZA–15YZF | ad. No. 136, 2005 |
| Part IB | |
| Heading to Part 1B | ad. No. 4, 1990 rep. No. 41, 2003 |
| Heading to Part IB | ad. No. 41, 2003 |
| Division 1 | |
| Div. 1 of Part 1B..... | ad. No. 4, 1990 |
| S. 16 | am. No. 93, 1966; No. 67, 1982 rep. No. 120, 1987 ad. No. 4, 1990 am. No. 123, 1991; No. 146, 1999; No. 106, 2009 |
| Division 2 | |
| Div. 2 of Part 1B..... | ad. No. 4, 1990 |
| S. 16A | ad. No. 4, 1990 am. No. 182, 1994; No. 41, 2003; No. 171, 2006; No. 144, 2008; No. 106, 2009 |
| S. 16B | ad. No. 4, 1990 am. No. 123, 1991 |
| S. 16BA (formerly s. 21AA).... | am. No. 73, 2008 |
| Ss. 16C, 16D | ad. No. 4, 1990 |
| Division 3 | |
| Div. 3 of Part 1B..... | ad. No. 4, 1990 |
| Ss. 16E, 16F..... | ad. No. 4, 1990 |
| S. 16G..... | ad. No. 4, 1990 rep. No. 141, 2002 |
| S. 17 | am. No. 84, 1960; Nos. 67 and 80, 1982 rep. No. 4, 1990 |
| S. 17A | ad. No. 67, 1982 am. No. 4, 1990; No. 164, 1992 |
| S. 17B | ad. No. 164, 1992 am. No. 137, 2000 |
| S. 18 | am. No. 9, 1926; No. 84, 1960 |
| S. 18A | ad. No. 84, 1960 am. No. 67, 1982 (as am. by No. 193, 1985); No. 195, 1985; No. 73, 1987; No. 4, 1990 |
| Renumbered s. 15A..... | No. 4, 1990 |
| S. 19 | am. No. 80, 1950; No. 84, 1960 rs. No. 67, 1982; No. 4, 1990 am. No. 123, 1991 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|-------------------------|---|
| S. 19A | ad. No. 84, 1960 am. No. 33, 1973; No. 67, 1982 rs. No. 4, 1990 |
| S. 19AA | ad. No. 4, 1990 |
| Division 4 | |
| Div. 4 of Part 1B | ad. No. 4, 1990 |
| Ss. 19AB, 19AC | ad. No. 4, 1990 rs. No. 123, 1991 |
| Ss. 19AD, 19AE | ad. No. 4, 1990 rs. No. 123, 1991 am. No. 11, 1995 |
| S. 19AF | ad. No. 4, 1990 |
| S. 19AG | ad. No. 4, 1990 rep. No. 141, 2002 ad. No. 104, 2004 |
| S. 19AH | ad. No. 4, 1990 am. No. 123, 1991 |
| Ss. 19AJ, 19AK | ad. No. 4, 1990 |
| Division 5 | |
| Div. 5 of Part 1B | ad. No. 4, 1990 |
| Ss. 19AL–19AN | ad. No. 4, 1990 |
| Ss. 19AP, 19AQ | ad. No. 4, 1990 |
| S. 19AR | ad. No. 4, 1990 am. No. 141, 2002 |
| S. 19AS | ad. No. 4, 1990 am. No. 41, 2003 |
| Ss. 19AT–19AZ | ad. No. 4, 1990 |
| S. 19AZA | ad. No. 4, 1990 am. No. 164, 1992; No. 24, 2001 |
| Ss. 19AZB–19AZD | ad. No. 4, 1990 |
| S. 19B | ad. No. 84, 1960 rs. No. 67, 1982 am. No. 4, 1990 (as am. by No. 41, 2003); No. 182, 1994; No. 171, 2006; No. 73, 2008 |
| S. 20 | am. No. 9, 1926 rs. No. 67, 1982 am. No. 108, 1989; No. 4, 1990; No. 164, 1992; No. 182, 1994; No. 104, 2004; No. 73, 2008 |
| S. 20A | ad. No. 84, 1960 am. No. 33, 1973 rs. No. 67, 1982 am. No. 80, 1982; No. 4, 1990; No. 164, 1992; No. 182, 1994 (as am. by No. 43, 1996); No. 73, 2008 |
| S. 20AA | ad. No. 67, 1982 am. No. 80, 1982; No. 114, 1983; No. 10, 1984; No. 73, 2008 |
| S. 20AB | ad. No. 67, 1982 am. No. 193, 1985; No. 4, 1990; No. 104, 2004; No. 73, 2008 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--|--|
| S. 20AC | ad. No. 67, 1982 am. No. 80, 1982; No. 4, 1990; No. 164, 1992; No. 73, 2008 |
| Division 6 | |
| Div. 6 of Part 1B..... | ad. No. 4, 1990 |
| S. 20B | ad. No. 84, 1960 am. No. 33, 1973; No. 67, 1982 rs. No. 4, 1990 |
| Ss. 20BA–20BH..... | ad. No. 4, 1990 |
| S. 20BI..... | ad. No. 4, 2010 |
| Division 7 | |
| Div. 7 of Part 1B | ad. No. 4, 1990 |
| Ss. 20BJ–20BN | ad. No. 4, 1990 |
| S. 20BP..... | ad. No. 4, 1990 |
| Division 8 | |
| Div. 8 of Part 1B | ad. No. 4, 1990 |
| Ss. 20BQ, 20BR | ad. No. 4, 1990 |
| Division 9 | |
| Div. 9 of Part 1B..... | ad. No. 4, 1990 |
| Ss. 20BS–20BW | ad. No. 4, 1990 |
| S. 20BX..... | ad. No. 4, 1990 am. No. 164, 1992 |
| S. 20BY..... | ad. No. 4, 1990 |
| Division 10 | |
| Heading to Div. 10 of Part 1B | ad. No. 4, 1990 |
| S. 20C..... | ad. No. 84, 1960 am. No. 67, 1982; No. 73, 2008 |
| S. 21 | am. No. 9, 1926; No. 67, 1982 |
| Renumbered s. 15B..... | No. 4, 1990 |
| S. 21A | ad. No. 9, 1926 am. No. 33, 1973; No. 67, 1982 |
| Renumbered s. 15C..... | No. 4, 1990 |
| S. 21AA..... | ad. No. 67, 1982 am. Nos. 91 and 114, 1983; No. 4, 1990 |
| Renumbered s. 16BA..... | No. 4, 1990 |
| S. 21B | ad. No. 9, 1926 rs. No. 84, 1960 am. No. 33, 1973; No. 67, 1982; No. 4, 1990 (as am. by No. 41, 2003) |
| S. 21C..... | ad. No. 9, 1926 |
| Renumbered s. 15D..... | No. 4, 1990 |
| S. 21D..... | ad. No. 84, 1960 am. No. 4, 1990 |
| S. 21E | ad. No. 4, 1990 am. No. 86, 2002; No. 3, 2010 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------------------------|--|
| S. 21F | ad. No. 4, 1990 am. No. 146, 1999 |
| S. 22 | am. No. 67, 1982 |
| Renumbered s. 15E | No. 4, 1990 |
| S. 22 | ad. No. 123, 1991 am. No. 86, 2002; Nos. 7 and 129, 2005 |
| S. 22A | ad. No. 123, 1991 am. No. 86, 2002; No. 129, 2005 |
| Part IC | |
| Part IC | ad. No. 59, 1991 |
| Division 1 | |
| Div. 1 of Part IC | ad. No. 136, 2001 |
| S. 23 | am. No. 84, 1960; No. 67, 1982 |
| Renumbered s. 15F | No. 4, 1990 |
| S. 23 | ad. No. 136, 2001 |
| S. 23A | ad. No. 59, 1991 |
| S. 23AA | ad. No. 164, 1992 rs. No. 136, 2001 |
| S. 23B | ad. No. 59, 1991 am. No. 96, 1998; No. 136, 2001; No. 41, 2003; Nos. 64 and 104, 2004; No. 136, 2005 |
| Division 2 | |
| Heading to Div. 2 of Part IC | ad. No. 136, 2001 |
| Note to Div. 2 of Part IC | ad. No. 136, 2001 |
| Heading to s. 23C | rs. No. 104, 2004 |
| S. 23C | ad. No. 59, 1991 am. No. 96, 1998; Nos. 37 and 136, 2001; No. 41, 2003; No. 104, 2004 |
| Note to s. 23C(3) | ad. No. 136, 2001 |
| Ss. 23CA, 23CB | ad. No. 104, 2004 |
| Heading to s. 23D | rs. No. 104, 2004 |
| S. 23D | ad. No. 59, 1991 am. No. 136, 2001; No. 104, 2004 |
| S. 23DA | ad. No. 104, 2004 |
| S. 23E | ad. No. 59, 1991 am. No. 136, 2001; No. 104, 2004 |
| Division 3 | |
| Heading to Div. 3 of Part IC | ad. No. 136, 2001 |
| Note to Div. 3 of Part IC | ad. No. 136, 2001 |
| Heading to s. 23F | rs. No. 136, 2001 |
| S. 23F | ad. No. 59, 1991 am. No. 3, 1995; No. 136, 2001 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------------------------|---|
| Ss. 23G, 23H | ad. No. 59, 1991 am. No. 136, 2001 |
| S. 23J..... | ad. No. 59, 1991 |
| Ss. 23K, 23L | ad. No. 59, 1991 am. No. 136, 2001 |
| S. 23M | ad. No. 59, 1991 rs. No. 136, 2001 |
| S. 23N..... | ad. No. 59, 1991 am. No. 136, 2001 |
| S. 23P | ad. No. 59, 1991 rs. No. 136, 2001 |
| S. 23Q..... | ad. No. 59, 1991 am. No. 136, 2001 |
| S. 23R..... | ad. No. 59, 1991 rep. No. 136, 2001 |
| Ss. 23S, 23T..... | ad. No. 59, 1991 |
| S. 23U..... | ad. No. 59, 1991 am. No. 136, 2001 |
| S. 23V | ad. No. 59, 1991 am. No. 13, 2000; No. 136, 2001 |
| S. 23W..... | ad. No. 59, 1991 |
| Part 1D | |
| Heading to Part 1D | rep. No. 41, 2003 |
| Heading to Part 1D | ad. No. 41, 2003 |
| Part 1D..... | ad. No. 96, 1998 |
| Outline to Part 1D | rs. No. 22, 2001 am. No. 130, 2006 |
| Division 1 | |
| S. 23WA..... | ad. No. 96, 1998 am. No. 22, 2001 (as am. by No. 63, 2002); No. 41, 2003; No. 64, 2004; No. 130, 2006; No. 144, 2008; No. 106, 2009 |
| S. 23WB..... | ad. No. 96, 1998 am. No. 22, 2001 |
| Division 2 | |
| Heading to Div. 2 of Part 1D | rs. No. 22, 2001 |
| S. 23WC | ad. No. 96, 1998 |
| S. 23WCA..... | ad. No. 96, 1998 am. No. 41, 2003 |
| Division 3 | |
| Heading to Div. 3 of Part 1D | rs. No. 22, 2001 |
| S. 23WD | ad. No. 96, 1998 am. No. 41, 2003 |
| Note to s. 23WD(3)..... | am. No. 41, 2003 |
| Note to s. 23WD(4)..... | am. No. 41, 2003; No. 104, 2004 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|-----------------------------------|---|
| Ss. 23WE–23WH..... | ad. No. 96, 1998 |
| S. 23WI..... | ad. No. 96, 1998 am. No. 22, 2001; No. 171, 2006 |
| Subhead. to s. 23WJ(2)..... | am. No. 22, 2001 |
| S. 23WJ..... | ad. No. 96, 1998 am. No. 22, 2001; No. 130, 2006 |
| Ss. 23WK, 23WL..... | ad. No. 96, 1998 |
| S. 23WLA..... | ad. No. 96, 1998 |
| Division 4 | |
| Heading to Div. 4 of Part 1D..... | rs. No. 22, 2001 |
| S. 23WM..... | ad. No. 96, 1998 am. No. 41, 2003 |
| Note to s. 23WM(3)..... | am. No. 41, 2003 |
| Note to s. 23WM(4)..... | am. No. 41, 2003; No. 104, 2004 |
| S. 23WN..... | ad. No. 96, 1998 |
| S. 23WO..... | ad. No. 96, 1998 am. No. 171, 2006 |
| S. 23WP..... | ad. No. 96, 1998 |
| Division 5 | |
| Heading to Div. 5 of Part 1D..... | rs. No. 22, 2001 |
| Subdivision A | |
| Ss. 23WQ, 23WR..... | ad. No. 96, 1998 |
| Subdivision B | |
| S. 23WS..... | ad. No. 96, 1998 |
| S. 23WT..... | ad. No. 96, 1998 am. No. 22, 2001; No. 171, 2006 |
| Ss. 23WU–23WW..... | ad. No. 96, 1998 |
| S. 23WX..... | ad. No. 96, 1998 am. No. 22, 2001 |
| S. 23WY..... | ad. No. 96, 1998 |
| Subdivision C | |
| Ss. 23XA–23XF..... | ad. No. 96, 1998 |
| S. 23XG..... | ad. No. 96, 1998 am. No. 24, 2001 |
| Subdivision D | |
| Ss. 23XGA–23XGC..... | ad. No. 96, 1998 |
| S. 23XGD..... | ad. No. 96, 1998 am. No. 41, 2003; No. 104, 2004 |
| Subdivision E | |
| S. 23XH..... | ad. No. 96, 1998 am. No. 24, 2001 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|------------------------------------|---------------------------------------|
| Division 6 | |
| Heading to Div. 6 of Part 1D | rs. No. 22, 2001 |
| Subdivision A | |
| S. 23XI | ad. No. 96, 1998 |
| Ss. 23XIA, 23XIB | ad. No. 96, 1998 |
| Ss. 23XJ, 23XK | ad. No. 96, 1998 |
| S. 23XL | ad. No. 96, 1998 rs. No. 22, 2001 |
| Subdivision B | |
| S. 23XM | ad. No. 96, 1998 am. No. 22, 2001 |
| Subdivision C | |
| S. 23XN | ad. No. 96, 1998 |
| S. 23XO | ad. No. 96, 1998 am. No. 22, 2001 |
| Subdivision D | |
| Heading to s. 23XP | am. No. 22, 2001 |
| S. 23XP | ad. No. 96, 1998 am. No. 22, 2001 |
| Ss. 23XQ–23XS | ad. No. 96, 1998 |
| S. 23XSA | ad. No. 130, 2006 |
| Subdivision E | |
| S. 23XT | ad. No. 96, 1998 |
| Subdivision F | |
| S. 23XU | ad. No. 96, 1998 |
| S. 23XUA | ad. No. 96, 1998 |
| Ss. 23XV, 23XW | ad. No. 96, 1998 |
| S. 23XWA | ad. No. 22, 2001 |
| Division 6A | |
| Div. 6A of Part 1D | ad. No. 22, 2001 |
| Ss. 23XWB–23XWI | ad. No. 22, 2001 |
| S. 23XWJ | ad. No. 22, 2001 am. No. 130, 2006 |
| Ss. 23XWK–23XWP | ad. No. 22, 2001 |
| Division 6B | |
| Div. 6B of Part 1D | ad. No. 22, 2001 |
| S. 23XWQ | ad. No. 22, 2001 |
| S. 23XWR | ad. No. 22, 2001 am. No. 130, 2006 |
| Ss. 23XWS–23XWV | ad. No. 22, 2001 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------------------------|--|
| Division 7 | |
| Subdivision A | |
| S. 23XX..... | ad. No. 96, 1998 am. No. 22, 2001; No. 130, 2006 |
| S. 23XY..... | ad. No. 96, 1998 am. No. 22, 2001 |
| Subdivision B | |
| S. 23XZ..... | ad. No. 96, 1998 |
| S. 23YA..... | ad. No. 96, 1998 am. No. 22, 2001 |
| S. 23YB..... | ad. No. 96, 1998 |
| Division 8 | |
| S. 23YC | ad. No. 96, 1998 am. No. 22, 2001 |
| S. 23YD | ad. No. 96, 1998 am. No. 22, 2001; No. 130, 2006 |
| Ss. 23YDAA, 23YDAB | ad. No. 22, 2001 |
| Division 8A | |
| Heading to Div. 8A of..... Part 1D | rs. No. 130, 2006 |
| Div. 8A of Part 1D..... | ad. No. 22, 2001 |
| S. 23YDAC | ad. No. 22, 2001 am. No. 130, 2006 |
| S. 23YDACA..... | ad. No. 130, 2006 |
| S. 23YDAD | am. No. 130, 2006 |
| Heading to s. 23YDAE..... | am. No. 130, 2006 |
| S. 23YDAE..... | am. No. 130, 2006 |
| S. 23YDAF..... | ad. No. 22, 2001 am. No. 41, 2003; No. 136, 2005; No. 130, 2006 |
| Heading to s. 23YDAG | am. No. 130, 2006 |
| S. 23YDAG | ad. No. 22, 2001 am. No. 130, 2006 |
| Division 9 | |
| S. 23YDA..... | ad. No. 96, 1998 |
| Ss. 23YE, 23YF | ad. No. 96, 1998 am. No. 22, 2001 |
| Heading to s. 23YG | am. No. 22, 2001 |
| S. 23YG | ad. No. 96, 1998 am. No. 22, 2001 |
| Note to s. 23YG(2)..... | am. No. 22, 2001 |
| Heading to s. 23YH..... | am. No. 22, 2001 |
| S. 23YH | ad. No. 96, 1998 am. No. 22, 2001 |
| Ss. 23YI, 23YJ..... | ad. No. 96, 1998 |
| S. 23YJA..... | ad. No. 96, 1998 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--|--|
| Ss. 23YK, 23YL | ad. No. 96, 1998 |
| Note to s. 23YL | am. No. 24, 2001 |
| S. 23YM | ad. No. 96, 1998 |
| Div. 10 of Part 1D | rep. No. 22, 2001 |
| S. 23YN | ad. No. 96, 1998 rs. No. 22, 2001 |
| S. 23YO | ad. No. 96, 1998 rs. No. 22, 2001 am. Nos. 84 and 130, 2006 |
| S. 23YP | ad. No. 96, 1998 am. No. 24, 2001 rs. No. 22, 2001 |
| S. 23YQ | ad. No. 96, 1998 am. No. 24, 2001 rs. No. 22, 2001 |
| Division 10 | |
| Div. 12 of Part 1D | |
| Renumbered Div. 10 | No. 22, 2001 |
| S. 23YQA | ad. No. 96, 1998 |
| Heading to s. 23YR | am. No. 41, 2003 |
| S. 23YR | ad. No. 96, 1998 |
| Note to s. 23YR | am. No. 41, 2003 |
| Heading to s. 23YS | am. No. 41, 2003 |
| S. 23YS | ad. No. 96, 1998 am. No. 41, 2003 |
| S. 23YT | ad. No. 96, 1998 rep. No. 22, 2001 |
| S. 23YU | ad. No. 96, 1998 am. No. 22, 2001 |
| Division 11 | |
| Div. 11 of Part 1D | rs. No. 22, 2001 |
| S. 23YUA | ad. No. 22, 2001 am. No. 41, 2003 |
| Ss. 23YUB, 23YUC | ad. No. 22, 2001 |
| S. 23YUD | ad. No. 22, 2001 am. No. 41, 2003; No. 136, 2005; No. 130, 2006 |
| Division 11A | |
| Heading to Div. 11A of..... Part 1D | rs. No. 125, 2004 |
| Div. 11A of Part 1D | ad. No. 88, 2002 |
| S. 23YUE | ad. No. 88, 2002 |
| S. 23YUF | ad. No. 88, 2002 am. No. 125, 2004; No. 100, 2005 |
| Heading to s. 23YUG | am. No. 130, 2006 |
| Ss. 23YUG, 23YUH | ad. No. 88, 2002 am. No. 130, 2006 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--|---|
| S. 23YUI | ad. No. 88, 2002 am. No. 88, 2002; No. 130, 2006 |
| S. 23YUJ..... | ad. No. 88, 2002 am. No. 130, 2006 |
| S. 23YUK..... | ad. No. 88, 2002 |
| Division 11B | |
| Div. 11B of Part ID | ad. No. 64, 2004 |
| S. 23YUL | ad. No. 64, 2004 |
| Division 12 | |
| Div. 13 of Part 1D Renumbered Div. 12 | No. 22, 2001 |
| S. 23YV..... | ad. No. 96, 1998 am. No. 22, 2001; No. 70, 2008 |
| Part IE | |
| Part IE..... | ad. No. 42, 2010 |
| Division 1 | |
| S. 23ZA..... | ad. No. 42, 2010 |
| Division 2 | |
| Ss. 23ZB, 23ZC | ad. No. 42, 2010 |
| Division 3 | |
| S. 23ZD..... | ad. No. 42, 2010 |
| Division 4 | |
| Ss. 23ZE–23ZG | ad. No. 42, 2010 |
| Part II | |
| S. 24 | rs. No. 84, 1960 am. No. 33, 1973; No. 67, 1982 rep. No. 65, 2002 |
| S. 24AA..... | ad. No. 84, 1960 am. No. 67, 1982 |
| S. 24AB..... | ad. No. 84, 1960 am. No. 33, 1973; No. 67, 1982; No. 24, 2001; No. 73, 2008 |
| S. 24AC | ad. No. 84, 1960 am. No. 67, 1982; No. 65, 2002; No. 73, 2008 |
| S. 24A | ad. No. 54, 1920 am. No. 84, 1960; No. 102, 1986 rep. No. 144, 2005 |
| S. 24B | ad. No. 54, 1920 rep. No. 144, 2005 |
| S. 24C..... | ad. No. 54, 1920 am. No. 67, 1982; No. 102, 1986 rs. No. 24, 2001 rep. No. 144, 2005 |
| S. 24D..... | ad. No. 54, 1920 am. No. 67, 1982; No. 102, 1986 rep. No. 144, 2005 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------|--|
| S. 24E | ad. No. 54, 1920 am. No. 93, 1966; No. 67, 1982; No. 108, 1989 rep. No. 144, 2005 |
| S. 24F | ad. No. 84, 1960 am. No. 33, 1973; No. 67, 1982; No. 102, 1986; No. 65, 2002; No. 73, 2008 |
| S. 25 | am. No. 80, 1950; No. 84, 1960; No. 67, 1982; No. 24, 2001; No. 73, 2008 |
| S. 26 | rs. No. 84, 1960 am. No. 24, 2001; No. 73, 2008 |
| Ss. 27, 28..... | am. No. 67, 1982 |
| S. 29 | am. No. 67, 1982; No. 120, 1987; No. 24, 2001 |
| S. 29A | ad. No. 9, 1926 am. No. 67, 1982 rep. No. 137, 2000 |
| S. 29B | ad. No. 9, 1926 am. No. 6, 1941; No. 67, 1982 rep. No. 137, 2000 |
| S. 29C..... | ad. No. 9, 1926 rs. No. 84, 1960 am. No. 67, 1982 rep. No. 137, 2000 |
| S. 29D..... | ad. No. 165, 1984 am. No. 76, 1986; No. 164, 1992 rep. No. 137, 2000 |
| S. 30 | am. No. 84, 1960; No. 67, 1982 rep. No. 137, 2000 |
| Part IIA | |
| Part IIA | ad. No. 9, 1926 |
| S. 30A | ad. No. 9, 1926 am. No. 30, 1932; No. 33, 1973; No. 19, 1979; No. 67, 1982; No. 144, 2005 |
| S. 30AA..... | ad. No. 30, 1932 am. No. 5, 1937; No. 33, 1973; No. 19, 1979; No. 67, 1982; No. 24, 2001 |
| S. 30AB..... | ad. No. 30, 1932 am. No. 93, 1966; No. 67, 1982; No. 73, 2008 |
| S. 30B | ad. No. 9, 1926 am. No. 67, 1982 |
| S. 30C..... | ad. No. 9, 1926 am. No. 33, 1973; No. 67, 1982 |
| S. 30D..... | ad. No. 9, 1926 am. No. 67, 1982 |
| S. 30E | ad. No. 9, 1926 am. No. 30, 1932; No. 84, 1960; No. 56, 1975; No. 67, 1982 |
| S. 30F | ad. No. 9, 1926 am. No. 30, 1932; No. 67, 1982; No. 24, 2001 |
| S. 30FA..... | ad. No. 30, 1932 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|-------------------------|--|
| S. 30FB..... | ad. No. 30, 1932 am. No. 33, 1973; No. 67, 1982 rep. No. 136, 1983 |
| Heading to s. 30FC..... | am. No. 24, 2001 |
| S. 30FC..... | ad. No. 30, 1932 am. No. 93, 1966; No. 67, 1982; No. 24, 2001 |
| S. 30FD..... | ad. No. 30, 1932 am. No. 33, 1973; No. 19, 1979; No. 67, 1982; No. 73, 2008 |
| S. 30G..... | ad. No. 9, 1926 am. No. 84, 1960 |
| S. 30H..... | ad. No. 9, 1926 am. No. 73, 2008 |
| S. 30J..... | ad. No. 9, 1926 am. No. 33, 1973; No. 73, 2008 |
| S. 30K..... | ad. No. 9, 1926 am. No. 67, 1982; No. 137, 2000; No. 73, 2008 |
| S. 30L..... | ad. No. 9, 1926 rs. No. 30, 1932 rep. No. 33, 1973 |
| S. 30M..... | ad. No. 9, 1926 rep. No. 33, 1973 |
| S. 30N..... | ad. No. 9, 1926 am. No. 93, 1966 rep. No. 33, 1973 |
| Ss. 30P, 30Q..... | ad. No. 9, 1926 rep. No. 33, 1973 |
| Heading to s. 30R..... | rs. No. 24, 2001 |
| S. 30R..... | ad. No. 9, 1926 am. No. 67, 1982; No. 24, 2001 |
| Part III | |
| S. 31..... | am. No. 84, 1960; No. 67, 1982 |
| S. 32..... | am. No. 67, 1982 rep. No. 137, 2000 |
| S. 33..... | am. No. 84, 1960; No. 67, 1982 rep. No. 137, 2000 |
| S. 34..... | am. No. 67, 1982; No. 24, 2001; No. 73, 2008 |
| S. 35..... | am. No. 216, 1973; No. 67, 1982; No. 24, 2001 |
| S. 36..... | am. No. 67, 1982; No. 73, 1987; No. 24, 2001 |
| S. 36A..... | ad. No. 84, 1960 am. No. 67, 1982; No. 73, 2008 |
| S. 37..... | am. No. 67, 1982; No. 24, 2001; No. 73, 2008 |
| S. 38..... | am. No. 67, 1982; No. 24, 2001 |
| S. 39..... | am. No. 67, 1982; No. 73, 1987; No. 24, 2001 |
| S. 40..... | rs. No. 84, 1960 am. No. 67, 1982; No. 24, 2001 |
| S. 41..... | am. No. 84, 1960; No. 67, 1982; No. 24, 2001 |
| S. 42..... | am. No. 67, 1982; No. 24, 2001 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|-----------------------|---|
| S. 43 | am. No. 67, 1982; No. 73, 1987; No. 24, 2001 |
| S. 44 | am. No. 84, 1960; No. 67, 1982; No. 24, 2001; No. 73, 2008 |
| S. 45 | am. No. 84, 1960; No. 67, 1982 |
| S. 46 | am. No. 67, 1982; No. 120, 1987; No. 108, 1989; No. 182, 1994; No. 24, 2001; No. 41, 2003 |
| S. 47 | am. No. 67, 1982 rs. No. 120, 1987 am. No. 108, 1989; No. 182, 1994; No. 41, 2003 |
| S. 47A | ad. No. 120, 1987 am. No. 182, 1994; No. 41, 2003 |
| Ss. 47B, 47C..... | ad. No. 120, 1987 am. No. 108, 1989; No. 182, 1994; No. 24, 2001; No. 41, 2003 |
| S. 48 | am. No. 216, 1973; No. 67, 1982 rs. No. 120, 1987 am. No. 108, 1989; No. 182, 1994 |
| S. 48A | ad. No. 141, 1987 am. No. 182, 1994 |
| S. 48B | ad. No. 141, 1987 rep. No. 65, 1994 |
| S. 49 | am. No. 84, 1960; No. 67, 1982; No. 24, 2001 |
| S. 50 | am. No. 84, 1960; No. 67, 1982 rep. No. 137, 2000 |
| Part IIIA..... | ad. No. 105, 1994 rep. No. 42, 2010 |
| S. 50AA..... | ad. No. 105, 1994 am. No. 24, 2001; No. 4, 2010 rep. No. 42, 2010 |
| Ss. 50AB–50AD..... | ad. No. 105, 1994 rep. No. 42, 2010 |
| Ss. 50BA–50BD..... | ad. No. 105, 1994 am. No. 24, 2001 rep. No. 42, 2010 |
| S. 50CA | ad. No. 105, 1994 rep. No. 42, 2010 |
| Note to s. 50CA | ad. No. 24, 2001 rep. No. 42, 2010 |
| S. 50CB | ad. No. 105, 1994 rep. No. 42, 2010 |
| Note to s. 50CB | ad. No. 24, 2001 rep. No. 42, 2010 |
| Ss. 50CC, 50CD | ad. No. 105, 1994 rep. No. 42, 2010 |
| Ss. 50DA, 50DB..... | ad. No. 105, 1994 am. No. 24, 2001 rep. No. 42, 2010 |
| Ss. 50EA–50EG..... | ad. No. 105, 1994 rep. No. 42, 2010 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------|--|
| Ss. 50FA–50FD | ad. No. 105, 1994 rep. No. 42, 2010 |
| S. 50GA | ad. No. 105, 1994 rep. No. 42, 2010 |
| Part IV | |
| Part IV | rep. No. 122, 1981 ad. No. 164, 1992 |
| S. 51 | am. No. 80, 1950; No. 10, 1955; No. 84, 1960 rep. No. 122, 1981 ad. No. 164, 1992 am. No. 4, 2010 |
| S. 52 | am. No. 84, 1960 rep. No. 122, 1981 ad. No. 164, 1992 |
| Ss. 53–55 | rep. No. 122, 1981 ad. No. 164, 1992 |
| S. 56 | am. No. 84, 1960 rep. No. 122, 1981 ad. No. 164, 1992 am. No. 146, 1999 |
| S. 57 | rep. No. 122, 1981 |
| Ss. 58, 59 | am. No. 84, 1960 rep. No. 122, 1981 |
| S. 60 | rs. No. 84, 1960 rep. No. 122, 1981 |
| S. 60A | ad. No. 84, 1960 rep. No. 122, 1981 |
| S. 61 | am. No. 84, 1960 rep. No. 122, 1981 |
| S. 62 | rep. No. 122, 1981 |
| S. 62A | ad. No. 10, 1955 rs. No. 84, 1960 rep. No. 122, 1981 |
| Part V | rep. No. 137, 2000 |
| S. 63 | am. No. 80, 1950; No. 67, 1982; No. 108, 1989 rep. No. 137, 2000 |
| S. 63A | ad. No. 9, 1926 rep. No. 122, 1981 |
| S. 64 | rep. No. 137, 2000 |
| S. 65 | am. No. 84, 1960; No. 216, 1973; No. 67, 1982 rep. No. 137, 2000 |
| S. 66 | am. No. 84, 1960; No. 67, 1982; No. 152, 1997 rep. No. 137, 2000 |
| S. 67 | am. No. 9, 1926; No. 67, 1982; No. 108, 1989 rep. No. 137, 2000 |
| S. 68 | am. No. 67, 1982 rep. No. 137, 2000 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------------|--|
| S. 69 | am. No. 84, 1960; No. 67, 1982 rep. No. 137, 2000 |
| Part VI | |
| S. 70 | rs. No. 84, 1960 am. No. 67, 1982; No. 141, 1987; No. 73, 2008 |
| S. 71 | rs. No. 9, 1926 am. No. 84, 1960; No. 67, 1982 rep. No. 137, 2000 |
| S. 71A | ad. No. 9, 1926 am. No. 67, 1982 rep. No. 137, 2000 |
| S. 72 | am. No. 9, 1926; Nos. 67 and 80, 1982 rep. No. 137, 2000 |
| S. 73 | rs. No. 9, 1926 am. No. 84, 1960 rs. No. 67, 1982 am. No. 141, 1987 rep. No. 137, 2000 |
| S. 73A | ad. No. 67, 1982 rep. No. 137, 2000 |
| S. 74 | am. No. 67, 1982 rep. No. 137, 2000 |
| S. 75 | am. No. 67, 1982; No. 141, 1987 rep. No. 137, 2000 |
| S. 76 | am. No. 9, 1926; No. 67, 1982 rs. No. 28, 1991 am. No. 164, 1992 rep. No. 137, 2000 |
| Part VIA | ad. No. 108, 1989 rep. No. 161, 2001 |
| S. 76A | ad. No. 108, 1989 am. No. 99, 1991; No. 59, 1997 rep. No. 161, 2001 |
| Ss. 76B, 76C | ad. No. 108, 1989 am. No. 24, 2001 rep. No. 161, 2001 |
| Ss. 76D, 76E | ad. No. 108, 1989 am. No. 99, 1991; No. 24, 2001 rep. No. 161, 2001 |
| S. 76F | ad. No. 108, 1989 rep. No. 161, 2001 |
| Part VII | |
| Heading to Part VII | rs. No. 84, 1960; No. 91, 2002 |
| S. 77 | am. No. 9, 1926 rs. No. 84, 1960 |
| S. 78 | am. No. 77, 1946 rs. No. 84, 1960 am. No. 67, 1982; No. 24, 2001 rep. No. 91, 2002 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------|--|
| S. 79 | am. No. 77, 1946 rs. No. 84, 1960 am. No. 33, 1973; No. 67, 1982; No. 24, 2001; No. 91, 2002; No. 73, 2008 |
| S. 80 | am. No. 77, 1946; No. 84, 1960; No. 33, 1973; No. 67, 1982 |
| S. 81 | am. No. 84, 1960; Nos. 33 and 216, 1973; No. 155, 1979; No. 70, 1980; No. 67, 1982; No. 24, 2001 rep. No. 91, 2002 |
| S. 82 | rs. No. 84, 1960 rep. No. 65, 1994 |
| S. 83 | am. No. 84, 1960; No. 67, 1982; No. 24, 2001 |
| S. 83A | ad. No. 84, 1960 am. No. 67, 1982; No. 24, 2001 rep. No. 91, 2002 |
| S. 83B | ad. No. 84, 1960 rep. No. 91, 2002 |
| S. 84 | rs. No. 84, 1960 am. No. 67, 1982 rep. No. 91, 2002 |
| S. 84A | ad. No. 84, 1960 rep. No. 91, 2002 |
| S. 85 | am. No. 216, 1973; No. 73, 2008 |
| S. 85A | ad. No. 84, 1960 rep. No. 91, 2002 |
| S. 85B | ad. No. 84, 1960 am. No. 67, 1982; No. 73, 2008 |
| S. 85C | ad. No. 84, 1960 rep. No. 91, 2002 |
| S. 85D | ad. No. 84, 1960 |
| Part VIIA | |
| Part VIIA | ad. No. 63, 1989 |
| S. 85E | ad. No. 84, 1960 am. No. 33, 1973 rep. No. 67, 1982 ad. No. 63, 1989 am. No. 142, 1994 |
| S. 85F | ad. No. 63, 1989 |
| Ss. 85G, 85H | ad. No. 63, 1989 am. No. 24, 2001 |
| Ss. 85J, 85K | ad. No. 63, 1989 rep. No. 137, 2000 |
| S. 85L | ad. No. 63, 1989 rs. No. 142, 1994 rep. No. 137, 2000 |
| S. 85M | ad. No. 63, 1989 rep. No. 137, 2000 |
| S. 85N | ad. No. 63, 1989 am. No. 24, 2001 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|----------------------------|--|
| S. 85P | ad. No. 63, 1989 rep. No. 137, 2000 |
| Ss. 85Q, 85R | ad. No. 63, 1989 am. No. 24, 2001 |
| S. 85S | ad. No. 63, 1989 am. No. 59, 1997; No. 24, 2001 rep. No. 9, 2002 |
| Ss. 85T, 85U | ad. No. 63, 1989 am. No. 24, 2001 |
| S. 85V | ad. No. 63, 1989 am. No. 164, 1992; No. 24, 2001 |
| Heading to s. 85W | am. No. 101, 2010 |
| S. 85W | ad. No. 63, 1989 am. No. 24, 2001; No. 101, 2010 |
| S. 85X | ad. No. 63, 1989 rs. No. 142, 1994 am. No. 24, 2001 rep. No. 9, 2002 |
| S. 85Y | ad. No. 63, 1989 rep. No. 9, 2002 |
| S. 85Z | ad. No. 63, 1989 |
| S. 85ZA | ad. No. 63, 1989 |
| Heading to Part VIIB | rs. No. 59, 1997 rep. No. 127, 2004 |
| Part VIIB | ad. No. 63, 1989 rep. No. 127, 2004 |
| S. 85ZB | ad. No. 63, 1989 am. No. 99, 1991; No. 59, 1997 rep. No. 127, 2004 |
| Heading to s. 85ZBA | am. No. 59, 1997 rep. No. 127, 2004 |
| S. 85ZBA | ad. No. 99, 1991 am. No. 59, 1997 rep. No. 127, 2004 |
| S. 85ZC | ad. No. 63, 1989 am. No. 99, 1991; No. 59, 1997 rep. No. 127, 2004 |
| S. 85ZD | ad. No. 63, 1989 am. No. 59, 1997; No. 24, 2001 rep. No. 127, 2004 |
| Heading to s. 85ZE | am. No. 59, 1997 rep. No. 127, 2004 |
| S. 85ZE | ad. No. 63, 1989 am. No. 59, 1997; No. 90, 1999; No. 24, 2001 rep. No. 127, 2004 |
| S. 85ZF | ad. No. 63, 1989 am. No. 164, 1992; No. 59, 1997 rep. No. 137, 2000 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|---------------------------|---|
| Heading to s. 85ZG | am. No. 59, 1997 rep. No. 127, 2004 |
| S. 85ZG | ad. No. 63, 1989 am. No. 59, 1997; No. 24, 2001 rep. No. 127, 2004 |
| S. 85ZH..... | ad. No. 63, 1989 am. No. 164, 1992; No. 24, 2001 rep. No. 127, 2004 |
| S. 85ZJ | ad. No. 63, 1989 am. No. 24, 2001 rep. No. 127, 2004 |
| S. 85ZK..... | ad. No. 63, 1989 am. No. 11, 1990; No. 99, 1991; No. 59, 1997; No. 24, 2001 rep. No. 127, 2004 |
| Note to s. 85ZK(2) | ad. No. 24, 2001 rep. No. 127, 2004 |
| S. 85ZKA | ad. No. 11, 1990 am. No. 99, 1991; No. 59, 1997 rep. No. 127, 2004 |
| Note to s. 85ZKA(2) | ad. No. 24, 2001 rep. No. 127, 2004 |
| S. 85ZKB | ad. No. 11, 1990 am. No. 182, 1994 rep. No. 127, 2004 |
| Part VIIC | |
| Part VIIC | ad. No. 108, 1989 |
| Division 1 | |
| S. 85ZL | ad. No. 108, 1989 am. Nos. 4 and 75, 1990; No. 28, 1991; No. 60, 1996; Nos. 146 and 161, 1999; No. 136, 2001; Nos. 105 and 125, 2002; No. 128, 2005; SLI 2006 No. 50; Nos. 86 and 170, 2006; Nos. 33 and 54, 2009 |
| Ss. 85ZM, 85ZN..... | ad. No. 108, 1989 |
| S. 85ZP..... | ad. No. 108, 1989 |
| Note to s. 85ZP(3) | ad. No. 106, 2009 |
| S. 85ZQ | ad. No. 108, 1989 |
| Division 2 | |
| S. 85ZR..... | ad. No. 108, 1989 |
| Ss. 85ZS–85ZU | ad. No. 108, 1989 am. No. 28, 2010 |
| Division 3 | |
| Ss. 85ZV, 85ZW | ad. No. 108, 1989 |
| Division 4 | |
| Ss. 85ZX, 85ZY | ad. No. 108, 1989 |
| Division 5 | |
| S. 85ZZ | ad. No. 108, 1989 am. No. 28, 2010 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|-------------------------------|---|
| S. 85ZZA..... | ad. No. 108, 1989 am. No. 2, 2000 |
| Ss. 85ZZB–85ZZE | ad. No. 108, 1989 |
| S. 85ZZF | ad. No. 108, 1989 am. No. 106, 2009 |
| S. 85ZZG | ad. No. 108, 1989 |
| Division 6 | |
| Subdivision A | |
| Subdiv. A of Div. 6 of | ad. No. 28, 2010 |
| Part VIIC | |
| Ss. 85ZZGA–85ZZGG | ad. No. 28, 2010 |
| Subdivision B | |
| Heading to Subdiv. B of | ad. No. 28, 2010 |
| Div. 6 of Part VIIC | |
| S. 85ZZH | ad. No. 108, 1989 am. No. 4, 1990; No. 182, 1994; No. 170, 2006; No. 21, 2007; No. 28, 2010 |
| S. 85ZZJ | ad. No. 108, 1989 am. No. 4, 1990 |
| Subdivision C | |
| Heading to Subdiv. C of | ad. No. 28, 2010 |
| Div. 6 of Part VIIC | |
| S. 85ZZK..... | ad. No. 108, 1989 |
| S. 85ZZL | ad. No. 106, 2009 |
| S. 86 | am. No. 6, 1915 rs. No. 84, 1960 am. No. 67, 1982; No. 165, 1984; No. 120, 1987 rs. No. 11, 1995 am. No. 137, 2000 rep. No. 24, 2001 |
| S. 86A | ad. No. 165, 1984 am. No. 76, 1986; No. 164, 1992 rep. No. 11, 1995 |
| Part VIII | |
| S. 87 | am. No. 67, 1982; No. 73, 2008 |
| S. 88 | am. No. 67, 1982 rep. No. 137, 2000 |
| S. 89 | am. No. 13, 1928; No. 77, 1946 rs. No. 84, 1960 am. No. 93, 1966; No. 33, 1973; No. 67, 1982; No. 141, 1987; No. 164, 1992; No. 64, 2004; No. 73, 2008 |
| S. 89A | ad. No. 13, 1928 rs. No. 84, 1960 am. No. 67, 1982; No. 73, 2008 |
| S. 90 | am. No. 93, 1966; No. 67, 1982; No. 164, 1992; No. 73, 2008 |
| S. 90A | ad. No. 10, 1955 am. No. 93, 1966; No. 67, 1982 |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------|---|
| S. 90B | ad. No. 84, 1960 am. No. 216, 1973; No. 67, 1982; No. 24, 2001 |
| S. 91 | ad. No. 30, 1932 am. No. 84, 1960 rep. No. 33, 1973 ad. No. 67, 1982 |
| Schedule | |
| Schedule..... | ad. No. 59, 1991 |

Note 2

Note 2

Measures to Combat Serious and Organised Crime Act 2001
(No. 136, 2001)

The following amendment commences on proclamation:

Schedule 4

10 Subsection 23A(6)

Repeal the subsection.

As at 16 August 2010 the amendment is not incorporated in this compilation.

Note 3

Health Practitioner Regulation (Consequential Amendments) Act 2010
(No. 48, 2010)

The following amendment commences on proclamation:

Schedule 1

1 Subsection 3(1) (definition of *nurse*)

Omit “registered”.

As at 16 August 2010 the amendment is not incorporated in this compilation.

Note 4

Freedom of Information Amendment (Reform) Act 2010 (No. 51, 2010)

The following amendments commence immediately after 1 November 2010:

Schedule 5

12 Paragraph 3ZQJ(2)(c)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

13 Paragraph 23YDAE(2)(g)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

Note 4**14 Paragraph 23YO(2)(g)**

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

15 Subsection 23YUK(4) (paragraph (b) of the definition of *independent review*)

Omit “nominee of the Privacy Commissioner”, substitute “a person nominated by the Information Commissioner in the performance of the privacy functions (within the meaning of the *Australian Information Commissioner Act 2010*)”.

16 Subsection 23YV(4) (paragraph (b) of the definition of *independent review*)

Omit “nominee of the Privacy Commissioner”, substitute “a person nominated by the Information Commissioner in the performance of the privacy functions (within the meaning of the *Australian Information Commissioner Act 2010*)”.

17 Division 5 of Part VIIC (heading)

Repeal the heading, substitute:

Division 5—Complaints to Information Commissioner**18 Subsection 85ZZ(1)**

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

Note: The heading to section 85ZZ is altered by omitting “**Privacy Commissioner’s**” and substituting “**Information Commissioner’s**”.

19 After subsection 85ZZ(1)

Insert:

(1A) The functions conferred by subsection (1) are privacy functions for the purposes of the *Australian Information Commissioner Act 2010*.

20 Subsection 85ZZ(2)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

21 Subsection 85ZZA(1)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

Note 4

Note: The heading to section 85ZZA is altered by omitting “**Privacy Commissioner**” and substituting “**Information Commissioner**”.

22 Subsection 85ZZA(3)

Omit “Privacy Commissioner’s”, substitute “Information Commissioner’s”.

23 Subsections 85ZZC(1) and (2)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

24 Subsection 85ZZD(1)

Before “Commissioner”, insert “Information”.

Note: The heading to section 85ZZD is altered by omitting “**Privacy Commissioner**” and substituting “**Information Commissioner**”.

25 Subsections 85ZZD(2) to (4)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

26 Subsection 85ZZF(1)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

As at 16 August 2010 the amendments are not incorporated in this compilation.

Note 5

Note 5

Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010
(No. 103, 2010)

The following amendment commences on the start of 1 January 2011:

Schedule 6

1 Amendment of Acts

The specified provisions of the Acts listed in this Part are amended by omitting “*Trade Practices Act 1974*” and substituting “*Competition and Consumer Act 2010*”.

Crimes Act 1914

49 Paragraph 4AB(3)(a)

As at 16 August 2010 the amendment is not incorporated in this compilation.

Table A

Table A

Application, saving or transitional provisions

Crimes Amendment (Enforcement of Fines) Act 1998 (No. 49, 1998)

Schedule 1

2 Transitional provision

An arrangement made under subsection 3B(1) of the *Crimes Act 1914* before the commencement of this Act continues in force after that commencement as if the arrangement had been made under subsection 3B(1) of that Act as in force immediately after that commencement.

8 Application

The amendments of section 15A of the *Crimes Act 1914* made by this Act apply in relation to a fine regardless of whether it was imposed before, on or after the commencement of this Act.

Crimes Amendment (Fine Enforcement) Act 1999 (No. 123, 1999)

Schedule 1

5 Application

The amendments of section 15A of the *Crimes Act 1914* made by this Act apply in relation to a fine regardless of whether it was imposed before, on or after the commencement of this Act.

Australian Federal Police Legislation Amendment Act 2000 (No. 9, 2000)

Schedule 3

20 Definition

In this Part:

commencing time means the time when this Part commences.

Table A**23 Amendment of the Crimes Act 1914**

- (1) Section 15U of the *Crimes Act 1914* as in force at and after the commencing time applies to a former 15M certificate in the same way as it does to a later 15M certificate.
- (2) In this item:
- former 15M certificate* means a certificate given under section 15M of the *Crimes Act 1914* at any time before the commencing time by a member of the Australian Federal Police holding the rank of Assistant Commissioner.
- later 15M certificate* means a certificate given under section 15M of the *Crimes Act 1914* at or after the commencing time by a senior executive AFP employee (within the meaning of the *Australian Federal Police Act 1979* as in force at and after the commencing time).

34 Warrants or writs etc. may continue to be executed

If, immediately before the commencing time, any warrant, writ, order, permission or other instrument (the *authority*) issued under a law of the Commonwealth, a State or a Territory could be executed by a person who was at that time a member, staff member or special member of the Australian Federal Police, the authority continues to be able to be executed at and after the commencing time by the person in his or her capacity as:

- (a) the Commissioner of the Australian Federal Police; or
- (b) a Deputy Commissioner of the Australian Federal Police; or
- (c) an AFP employee; or
- (d) a special member of the Australian Federal Police;

(all within the meaning of the *Australian Federal Police Act 1979* as in force at and after the commencing time).

Note: A person who is a member or staff member of the Australian Federal Police immediately before the commencing time is taken to be engaged as an AFP employee. Similarly, a person who is a special member of the Australian Federal Police immediately before the commencing time is taken to be appointed as a special member. See item 2 of this Schedule.

Table A

35 Regulations dealing with matters of a transitional or saving nature

- (1) The Governor-General may make regulations, not inconsistent with any other provision of this Schedule, prescribing matters of a transitional or saving nature in relation to the amendments made by Schedule 1 or 2.
- (2) Regulations made under this item within one year after the commencement of this item may commence on a day earlier than the day on which they are made, but not earlier than the commencement of this item.

Crimes at Sea Act 2000 (No. 13, 2000)

Schedule 2

11 Application of amendments

- (1) The amendments made by this Schedule apply to acts and omissions that take place after this Schedule commences.
- (2) Although this Schedule repeals the *Crimes at Sea Act 1979*, that Act continues to apply, in relation to acts and omissions that took place before this Schedule commences, as if the repeal had not happened.
- (3) For the purposes of this item, if an act or omission is alleged to have taken place between two dates, one before and one on or after the day on which this Schedule commences, the act or omission is alleged to have taken place before this Schedule commences.

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:

Table A

-
- (a) an offence committed before the commencement of this item; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
 - (b) any or all of those other provisions are repealed by this Schedule; and
 - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001 (No. 24, 2001)

4 Application of amendments

- (1) Subject to subsection (3), each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
 - (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.
-

Table A

Measures to Combat Serious and Organised Crime Act 2001
(No. 136, 2001)

Schedule 1

18 Transitional provision—pending applications

- (1) Any application for a certificate authorising a controlled operation:
 - (a) that was made before the commencement of this Schedule;
and
 - (b) about which a decision was not made before that commencement;ceases to have effect on that commencement.
- (2) However, this item does not prevent a new application being made after that commencement.

41 Transitional provision—quarterly reports to the Minister

If this Schedule does not commence at the beginning of a quarter, sections 15R and 15S of the *Crimes Act 1914* as in force after that commencement do not require the reports relating to the quarter in which that commencement occurred to inform the Minister of:

- (a) any decision made before that commencement; and
- (b) any certificate given under section 15M of that Act before that commencement; and
- (c) any variation, review or expiry of a certificate that occurred before that commencement.

However, sections 15R and 15S of that Act as in force immediately before that commencement continue to apply, after that commencement, in relation to any such decision or certificate.

48 Transitional provision—existing certificates

- (1) Part IAB of the *Crimes Act 1914* as amended by this Act does not apply to a certificate, given under section 15M of that Act, that was in force immediately before the commencement of this Schedule.
- (2) However, Part IAB of that Act, as in force immediately before that commencement, continues to apply to such a certificate.

Table A**Schedule 4****51 Transitional—prescribed offices**

- (1) This item applies to an office that, immediately before the commencement of this item, was an office prescribed under subsection 23L(4) of the *Crimes Act 1914*.
- (2) The office is taken to be, immediately after the commencement of this item, an office prescribed under subsection 23L(2) of the *Crimes Act 1914* as amended by this Act.

Criminal Code Amendment (Espionage and Related Matters) Act 2002
(No. 91, 2002)

4 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by a Schedule to this Act, that provision continues to apply, after the commencement of this section, in relation to:
 - (a) an offence committed before the commencement of this section; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this section; or
 - (c) any matter connected with, or arising out of, such proceedings;as if the amendment or repeal had not been made.
- (2) Subsection (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

Table A

Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Act 2002 (No. 141, 2002)

4 Transitional—items 1, 2 and 3 of Schedule 3

The amendments made by items 1, 2 and 3 of Schedule 3 apply to any sentence imposed after the commencement of those items, whether or not the offence concerned was committed before that commencement.

Crimes Legislation Enhancement Act 2003 (No. 41, 2003)

Schedule 1

5 Application

The amendment of subsection 4J(4) of the *Crimes Act 1914* by this Schedule applies in relation to indictable offences committed after the start of the day on which this Act receives the Royal Assent.

7 Application

Section 4JA of the *Crimes Act 1914* applies to proceedings for an offence that were instituted after this Act received the Royal Assent (whether the offence was committed before or after this Act received the Royal Assent).

7F Transitional provision for existing arrangements under subsection 23YUD(1)

An arrangement that:

- (a) was entered into under subsection 23YUD(1) of the *Crimes Act 1914* before the commencement of this item; and
- (b) was in force immediately before this commencement;

continues in force after that commencement as if it had been entered into under that subsection as amended by this Schedule.

Table A**Schedule 3****42 Saving provision**

- (1) The amendments made by this Schedule do not invalidate:
- (a) an instrument made under, or referring to, a Part of the *Crimes Act 1914* whose heading is repealed and substituted by this Schedule; or
 - (b) anything done under such an instrument or such a Part.
- (2) Subitem (1) has effect whether the instrument was made, or the thing was done, before or after this Act received the Royal Assent.

Anti-terrorism Act 2004 (No. 104, 2004)

4 Application of amendments

- (1A) The amendment made by item 1B of Schedule 1 applies:
- (a) to a person convicted of an offence on or after the commencement of this Act (whether or not the person was charged with the offence before the commencement of this Act); and
 - (b) to a person charged with an offence on or after the commencement of this Act.
- (1B) The amendments made by items 1C, 1D and 1E of Schedule 1 apply in relation to minimum non-parole offences of which persons are convicted on or after the commencement of this Act, whether the offences were or are committed before, on or after that commencement.

Table A

Crimes Legislation Amendment (Telecommunications Offences and Other Measures) Act (No. 2) 2004 (No. 127, 2004)

Schedule 1

30 Saving—existing regulations respecting interception devices

- (1) Regulations made for the purposes of paragraph 85ZKB(2)(c) of the *Crimes Act 1914* and in force immediately before the commencement of item 1 of this Schedule continue in force as if they had been made for the purposes of subsection 474.4(3) of the *Criminal Code* as enacted by that item.
- (2) Subitem (1) does not prevent amendment or repeal of the regulations referred to in that subitem.

31 Saving—offences against Part VIIB of the *Crimes Act 1914*

- (1) For the purposes of the *Telecommunications (Interception and Access) Act 1979*, **prescribed offence** includes an offence in relation to conduct (within the meaning of the *Criminal Code*) that:
 - (a) occurred before Part VIIB of the *Crimes Act 1914* was repealed by this Act; and
 - (b) constituted an offence against a provision of that Part.
- (2) Subsection 7(1) of the *Telecommunications (Interception and Access) Act 1979* does not apply to, or in relation to, an act or thing done by an employee of a carrier (within the meaning of that Act) in the course of his or her duties for or in connection with the identifying or tracing of any person who has contravened, or is suspected of having contravened, a provision of Part VIIB of the *Crimes Act 1914* before its repeal by this Act, where it is reasonably necessary for the employee to do that act or thing in order to perform those duties effectively.

Table A*Financial Framework Legislation Amendment Act 2005* (No. 8, 2005)**4 Saving of matters in Part 2 of Schedule 1**

- (1) If:
- (a) a decision or action is taken or another thing is made, given or done; and
 - (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;
- then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

- (2) In this section:

Part 2 Act means an Act that is amended by an item in Part 2 of Schedule 1.

Schedule 1**496 Saving provision—Finance Minister's determinations**

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.

Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005 (No. 129, 2005)

Schedule 1**75 Application of amendments to conduct before and after commencement**

- (1) In this item:
- earlier conduct** means conduct engaged in before the commencement of this Schedule.
- engage in conduct** has the same meaning as in the *Criminal Code*.

Table A

later conduct means conduct engaged in after the commencement of this Schedule.

new law means Part 9.1 of the *Criminal Code* as in force from time to time.

old law means:

- (a) the provisions of Division 2 of Part XIII of the *Customs Act 1901* as in force from time to time before the commencement of this Schedule to the extent to which those provisions related to narcotic substances; and
 - (b) any law related to those provisions.
- (2) The amendments made by this Schedule do not apply in relation to earlier conduct.
- (3) Despite the amendments made by this Schedule, the old law continues to apply in relation to later conduct if:
- (a) the later conduct is related to earlier conduct; and
 - (b) because of that relationship, the later conduct would have constituted a physical element (or a part of a physical element) of an offence against the old law, had the old law remained in force.
- (4) If later conduct is alleged against a person in a prosecution for an offence against the old law, that conduct must not be alleged against the person in a prosecution for:
- (a) an offence against the new law; or
 - (b) an offence related to an offence against the new law.

76 Transitional regulations

- (1) The regulations may make provision for matters of a transitional nature (including any saving or application provisions) arising from the amendments or repeals made by this Schedule.
 - (2) The Governor-General may make regulations for the purposes of subitem (1).
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Table A

Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Act 2005 (No. 136, 2005)

Schedule 1**7 Application of amendment—subsection 23B(1) of the *Crimes Act 1914***

The amendment of subsection 23B(1) of the *Crimes Act 1914* made by this Schedule applies to a recording made after the commencement of this item.

19 Transitional—arrangements under subsection 23YUD(1) of the *Crimes Act 1914*

- (1) This item applies to an arrangement if:
- (a) the arrangement was entered into under subsection 23YUD(1) of the *Crimes Act 1914*; and
 - (b) the arrangement was in force immediately before the commencement of this item.
- (2) The arrangement has effect, after the commencement of this item, as if it had been entered into under subsection 23YUD(1) of the *Crimes Act 1914* as amended by this Schedule.

Anti-Terrorism Act (No. 2) 2005 (No. 144, 2005)

4 Review of anti-terrorism laws

- (1) The Council of Australian Governments agreed on 27 September 2005 that the Council would, after 5 years, review the operation of:
 - (a) the amendments made by Schedules 1, 3, 4 and 5; and
 - (b) certain State laws.
 - (2) If a copy of the report in relation to the review is given to the Attorney-General, the Attorney-General must cause a copy of the report to be laid before each House of Parliament within 15 sitting days after the Attorney-General receives the copy of the report.
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Table A

Crimes Act Amendment (Forensic Procedures) Act (No. 1) 2006
(No. 130, 2006)

Schedule 1

52 Transitional

For the purposes of the application of Part ID of the *Crimes Act 1914* after the commencement of this item, a reference to the Commonwealth DNA database system is taken, in relation to a thing that happened before that commencement, to include a reference to the DNA database system (within the meaning of that Act as in force immediately before that commencement).

Crimes Amendment (Bail and Sentencing) Act 2006 (No. 171, 2006)

Schedule 1

6 Application of amendments

- (1) The amendments made by items 1 to 3 of this Schedule apply, after the commencement of this Act, in relation to offences committed, or alleged to have been committed, before or after that commencement.
- (2) The amendments made by items 4 to 5L of this Schedule do not apply in relation to offences committed before the commencement of this Act.

Crimes Legislation Amendment (Serious and Organised Crime) Act 2010
(No. 3, 2010)

Schedule 3

11 Relationship to other laws and matters

- (1) Subject to this item and item 15, this Part is not intended to limit a discretion that a court has:
 - (a) to admit or exclude evidence in any proceedings; or
 - (b) to stay criminal proceedings in the interests of justice.

Table A

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- (2) In determining whether evidence should be admitted or excluded in any proceedings, the fact that the evidence was obtained as a result of a person engaging in criminal activity is, subject to subitem (5), to be disregarded if:
- (a) the person was a participant in an operation authorised before commencement under a State controlled operations law, acting in the course of that operation; and
 - (b) the criminal activity was conduct constituting an offence for which a person would, but for item 12, be criminally responsible.
- (3) This item applies to criminal activity engaged in before, on or after commencement.
- (4) This item applies to the following:
- (a) proceedings that were instituted before commencement, but have not been completed as at commencement;
 - (b) proceedings instituted on or after commencement;
 - (c) subject to subitem (5)—appeals arising from proceedings instituted before, on or after commencement.
- (5) Despite subitem (4), if a court has determined before commencement that particular evidence be excluded, this item does not provide a ground of appeal against that determination.

12 Protection from criminal responsibility for conduct engaged in before, on or after commencement under a pre-commencement State authorisation

- (1) This item applies to a participant in an operation authorised under a State controlled operations law if:
- (a) the operation was authorised before commencement; and
 - (b) the participant engaged in conduct, whether before, on or after commencement, in the course of, and for the purposes of, the operation; and
 - (c) engaging in that conduct was a Commonwealth offence.
- (2) Despite any other law of the Commonwealth, the participant is not criminally responsible for the Commonwealth offence, if:
- (a) the conduct was authorised by, and was engaged in in accordance with, the authority to conduct the controlled operation; and
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Table A

- (b) the conduct did not involve the participant intentionally inducing a person to commit a Commonwealth offence or an offence against a law of a State or Territory that the person would not otherwise have intended to commit; and
 - (c) the conduct did not involve the participant engaging in any conduct that was likely to:
 - (i) cause the death of, or serious injury to, any person; or
 - (ii) involve the commission of a sexual offence against any person; and
 - (d) if the person is a civilian participant in the operation—he or she acts in accordance with the instructions of a law enforcement officer.
- (3) Expressions used in this item have the same meanings as in the State controlled operations law under which the operation was authorised.

13 Effect of item 12 on other laws relating to criminal investigation

Item 12 does not apply to a person's conduct that is, or could have been, authorised under a Commonwealth law or a law of a State or Territory relating to the following:

- (a) arrest or detention of individuals;
- (b) searches of individuals;
- (c) entry onto, or searches or inspection of, premises;
- (d) searches, inspections or seizures of other property;
- (e) forensic procedure;
- (f) electronic surveillance devices or telecommunications interception;
- (g) identification procedures;
- (h) the acquisition or use of assumed identities;
- (i) any other matter concerning powers of criminal investigation.

14 Protection from criminal responsibility for certain ancillary conduct

- (1) This item applies if:
- (a) a person engaged in conduct (the *ancillary conduct*), whether before, on or after commencement, that related to conduct (the *related conduct*) that:

Table A

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- (i) was engaged in before, on or after commencement by another person; and
 - (ii) constituted an offence for which a person would, but for item 12, be criminally responsible; and
 - (b) engaging in the ancillary conduct was or is an ancillary offence (within the meaning of the *Criminal Code*) in relation to the offence constituted by the related conduct.
- (2) Despite any law of the Commonwealth, the person who engaged in the ancillary conduct is not criminally responsible for the ancillary offence if, at the time the person engaged in the ancillary conduct, he or she believed the related conduct was being engaged in, or would be engaged in, by a participant in an operation authorised before commencement under a State controlled operations law.
 - (3) Expressions used in this item have the same meanings as in the State controlled operations law under which the person believed the controlled conduct was being engaged in.

15 Evidence of authorities

A document purporting to be an authority granted under a State controlled operations law:

- (a) is admissible in any legal proceedings; and
- (b) in the absence of evidence to the contrary, is proof in any proceedings (not being criminal or disciplinary proceedings against a law enforcement officer) that the person granting the authority was satisfied of the facts he or she was required to be satisfied of to grant the authority.

16 Definitions

In this Part:

commencement means the commencement of this item.

State controlled operations law means:

- (a) a law of a State or Territory; or
- (b) a provision or provisions of a law of a State or Territory; prescribed by the regulations for the purposes of this definition.

Table A

17 Controlled operations authorised before commencement continue under old law

- (1) Despite the repeals and amendments made by this Part, the *Crimes Act 1914*, as in force immediately before the commencement of this item, continues to apply after that commencement, in relation to a pre-commencement controlled operation, as if those repeals and amendments had not happened.
- (2) In this item:
pre-commencement controlled operation means a controlled operation authorised under Part IAB of the *Crimes Act 1914* before the commencement of this item, whether or not the pre-commencement controlled operation had been completed as at that commencement.

18 Controlled operations—continuation of Division 3 of Part IAB

Despite the repeal of Division 3 of Part IAB of the *Crimes Act 1914* by this Part, that Division, as in force immediately before the commencement of this item, is taken to continue in effect as if it had not been repealed.

19 Assumed identities—authorisations taken to be authority under new law

- (1) This item applies to an authorisation that was granted under section 15XG of the *Crimes Act 1914* immediately before the commencement of this item.
- (2) The authorisation has effect, after the commencement of this item, as if it were an authority granted under section 15KB as inserted by this Schedule.

20 Assumed identities—continuation of old law in relation to States without corresponding laws

- (1) Despite the repeal of Part IAC of the *Crimes Act 1914* by this Schedule:
 - (a) section 15XH of that Act, as in force immediately before the commencement of this item, continues in effect after that commencement, in relation to a State or Territory that is not a participating jurisdiction, as if that repeal had not happened; and

Table A

- (b) that Part, and any other provision of the *Crimes Act 1914* that relates to the operation of that Part, continues in effect in relation to authorisations under that Part and assumed identities acquired or used under such authorisations as if that repeal had not happened.
- (2) In this item:
participating jurisdiction has the same meaning as in section 15K of the *Crimes Act 1914*, as in force immediately after the commencement of this item.

Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010 (No. 4, 2010)

Schedule 2**11 Application**

The amendments made by this Part apply in relation to:

- (a) a thing seized before, on or after the commencement of this Part; and
- (b) a document produced before, on or after the commencement of this Part.

25 Application

- (1) The amendments made by this Part apply in relation to warrants issued on or after the commencement of this Part.
- (2) However, section 3LA of the *Crimes Act 1914* as amended by this Part applies in relation to orders under that section made after the commencement of the amendments. For this purpose it does not matter whether one or more of the following events occurred before, on or after that commencement:
 - (a) the issue of the warrant concerned;
 - (b) the removal or seizure of the computer or data storage device (if such removal or seizure is relevant to applying for or making the order concerned).

Table A

Schedule 6

2 Application of section 20BI of the *Crimes Act 1914*

Section 20BI of the *Crimes Act 1914* (as amended by this Schedule) applies to findings made before, on or after the commencement of that section.

3 Transitional provision

- (1) If appeal proceedings were started under section 570C of the *Crimes Act 1958* of Victoria before the repeal of that section but those proceedings (including any proceedings for orders under subsection 570C(2) of that Act following the allowing of the appeal) were not completed before that repeal:
- (a) section 20BI of the *Crimes Act 1914* does not apply in relation to the finding that was the subject of the appeal proceedings, despite item 2; and
 - (b) the following provisions of the *Crimes Act 1958* of Victoria, as in force immediately before their repeal by the *Criminal Procedure Act 2009* of Victoria, continue to apply (as laws of the Commonwealth) in relation to the finding despite that repeal:
 - (i) section 570C;
 - (ii) section 570A as applied by section 570C;
 - (iii) other provisions so far as they relate to section 570C or section 570A as applied by section 570C.

Note 1: Before their repeal those provisions applied because of section 68 of the *Judiciary Act 1903*.

Note 2: Section 570C of the *Crimes Act 1958* of Victoria provided for appeals to the Court of Appeal of Victoria from a finding by a jury in proceedings in the Trial Division of the Supreme Court of Victoria or in the County Court of Victoria that the accused was not fit to stand trial.

Note 3: Section 570C of the *Crimes Act 1958* of Victoria provided for appeals by applying section 570A of that Act with modifications. Other provisions of that Act (such as section 570D and Division 3 of Part VI) related to appeals to the Court of Appeal (including appeals under section 570C of that Act).

- (2) An instrument in force for the purposes of any of those provisions immediately before the repeal described in paragraph (1)(b) of the provision continues in force (despite that repeal) for the purposes of that provision as it continues to apply because of that paragraph.

Table A*Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010*
(No. 42, 2010)**Schedule 1****64 Application**

The amendments made by items 62 and 63 apply in relation to a controlled operation authorised on or after the commencement of this item, whether the offence was committed before, on or after that commencement.

71 Application

Despite the amendments made by items 65, 68, 69 and 70, sections 15Y and 15YT of the *Crimes Act 1914*, as in force immediately before the commencement of this item, continue to apply in relation to an offence against Part IIIA of that Act, as in force before that commencement.

Schedule 2**9 Application of Part IE of the *Crimes Act 1914***

- (1) Part IE of the *Crimes Act 1914* applies in relation to Commonwealth child sex offences, whether the conduct constituting the offences occurred before, on or after the commencement of that Part.
- (2) Part IE of the *Crimes Act 1914* also applies in relation to the following offences constituted by conduct that occurred before the commencement of that Part as if they were Commonwealth child sex offences:
 - (a) an offence against former Part IIIA of the *Crimes Act 1914* (which was about child sex tourism);
 - (b) an offence against section 474.19, 474.20, 474.22, 474.23, 474.26 or 474.27 of the *Criminal Code* as in force before the commencement of Schedule 1 to this Act;
 - (c) an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code* relating to an offence described in paragraph (a) or (b) of this subitem;
 - (d) an offence against a provision described in paragraph (a) or (b) of this subitem taken to have been committed because of section 11.2, 11.2A or 11.3 of the *Criminal Code*;

Table A

- (e) an offence against former Part IIIA of the *Crimes Act 1914* taken to have been committed because of former section 5 of that Act;
- (f) an offence against former section 7, 7A or 86 of the *Crimes Act 1914* relating to an offence against former Part IIIA of that Act.

Crimes Amendment (Royal Flying Doctor Service) Act 2010
(No. 101, 2010)

Schedule 1

Application of amendments

- (1) The amendment made by item 1 applies in relation to conduct engaged in by a person on or after the day the item commences.
- (2) The amendment made by item 2 applies, on and after the day the item commences, in relation to conduct engaged in by a person before, on or after that day.