



Crimes Act 1914

No. 12, 1914

Compilation No. 26

Compilation date: 1 July 1989

Includes amendments: Act No. 63, 1989

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This is a compilation of the *Crimes Act 1914* that shows the text of the law as amended and in force on 1 July 1989 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part I—Preliminary	1
1 Short title.....	1
3 Interpretation.....	1
3A Operation of Act	2
3B Arrangements with States, Northern Territory and Norfolk Island.....	3
Part IA—General	4
4 Application of common law	4
4A Meaning of certain words	4
4B Pecuniary penalties—natural persons and bodies corporate.....	4
4C Offences under 2 or more laws	5
4D Penalties	6
4E Pecuniary penalties	6
4F Effect of alterations in penalties	6
4G Indictable offences	7
4H Summary offences	7
4J Certain indictable offences may be dealt with summarily.....	7
4K Continuing and multiple offences.....	8
5 Aiders and abettors	9
6 Accessory after the fact.....	9
7 Attempts.....	10
7A Inciting to or urging the commission of offences	10
8 Power of arrest without warrant.....	10
8A Arrest without warrant for suspected offences	10
9 Seizure and condemnation of forfeitable goods	11
10 Search warrant	11
13 Institution of proceedings in respect of offences	12
14 Proof of exceptions, &c.	13
15 Remand of defendant	13
17 Habitual criminals.....	13
17A Restriction on imposing sentences of imprisonment	14
18 Sentence of imprisonment	15
18A Enforcement of fines etc.	15
19 Cumulative sentences of imprisonment.....	16
19A Licences for offenders to be at large.....	18
19B Discharge of offenders without proceeding to conviction.....	21

20	Conditional release of offenders after conviction.....	23
20A	Failure to comply with condition of discharge or release.....	26
20AA	Power to discharge or vary conditions of recognizance	29
20AB	Additional sentencing alternatives.....	32
20AC	Failure to comply with sentence passed, or order made, under subsection 20AB(1)	34
20B	Offenders found to be insane.....	37
20C	Offences by children and young persons.....	38
21	Time for commencement of prosecutions	39
21A	Form of indictments, information and summonses	39
21AA	Taking other offences into account.....	40
21B	Reparation for offences.....	43
21C	Burden of proof of lawful authority.....	43
21D	Prerogative of mercy.....	44
22	Privilege of Parliament not affected	44
23	Civil rights not affected	44

Part II—Offences against the Government 45

24	Treason.....	45
24AA	Treachery	46
24AB	Sabotage.....	48
24AC	Institution of prosecutions	49
24A	Definition of seditious intention	50
24B	Definition of seditious enterprise.....	50
24C	Offences	50
24D	Seditious words.....	51
24E	Punishment of offences.....	51
24F	Certain acts done in good faith not unlawful.....	51
25	Inciting to mutiny.....	53
26	Assisting prisoners of war to escape.....	53
27	Unlawful drilling.....	53
28	Interfering with political liberty.....	54
29	Destroying or damaging Commonwealth property	54
29A	False pretences.....	54
29B	False representation	55
29C	Statements in applications for grant of money, &c.	55
29D	Fraud.....	55
30	Seizing goods in Commonwealth custody.....	55

Part IIA—Protection of the Constitution and of Public and other Services

	57
30A	Unlawful associations57
30AA	Application for declaration as to unlawful association.....58
30AB	Attorney-General may require information59
30B	Officers of unlawful associations60
30C	Advocating or inciting to crime60
30D	Giving or soliciting contributions for unlawful associations.....60
30E	Deregistration of newspaper61
30F	Sale or distribution of books, &c.61
30FA	Imprints on publications62
30FC	Owner, &c., of building knowingly permitting meeting of unlawful association62
30FD	Disqualification from voting of member of unlawful association.....62
30G	Forfeiture of property held by an unlawful association.....63
30H	Proof of membership of an association.....63
30J	Industrial disturbances, lock-outs and strikes63
30K	Obstructing or hindering the performance of services.....64
30R	Effect of averments of prosecutor.....65

Part III—Offences relating to the Administration of Justice

	67
31	Definitions67
32	Judicial corruption67
33	Official corruption in relation to offences68
34	Judge or magistrate acting oppressively or when interested.....68
35	Giving false testimony69
36	Fabricating evidence.....69
36A	Intimidation of witnesses, &c.69
37	Corruption of witnesses70
38	Deceiving witnesses.....70
39	Destroying evidence71
40	Preventing witnesses from attending Court.....71
41	Conspiracy to bring false accusation71
42	Conspiracy to defeat justice.....71
43	Attempting to pervert justice72
44	Compounding offences.....72
45	Inserting advertisements without authority of Court.....72
46	Aiding prisoner to escape72

47	Escaping.....	73
47A	Rescuing a prisoner from custody etc.....	73
47B	Person unlawfully at large	74
47C	Permitting escape.....	74
48	Harbouring etc. an escapee	75
48A	Sentence ceases to run while escaped prisoner at large.....	75
48B	Arrest of prisoner unlawfully at large.....	75
49	Removing property under seizure.....	76
50	Obstructing officers of Courts	76
Part V—Forgery		77
63	What amounts to forgery	77
64	What amounts to uttering.....	78
65	Forgery of seals.....	78
66	Forgery of official signatures.....	79
67	Forgery of Commonwealth documents etc.....	79
68	Forging official marks	80
69	Making special paper, &c., for	80
Part VI—Offences by and against Public Officers		82
70	Disclosure of information by Commonwealth officers	82
71	Stealing property of the Commonwealth	82
71A	Proof of general deficiency sufficient.....	83
72	Falsification of books or records by officers	83
73	Corruption and bribery of Commonwealth officers	84
73A	Corruption and bribery of members of the Parliament.....	84
74	False returns or certificates by officers.....	85
75	Personating public officers	85
76	Resisting or obstructing public officers.....	85
Part VIA—Offences relating to computers		87
76A	Interpretation.....	87
76B	Unlawful access to data in Commonwealth and other computers.....	87
76C	Damaging data in Commonwealth and other computers.....	89
76D	Unlawful access to data in Commonwealth and other computers by means of Commonwealth facility	89
76E	Damaging data in Commonwealth and other computers by means of Commonwealth facility	91
76F	Saving of State and Territory laws	91

Part VII—Espionage and Official Secrets	92
77 Interpretation.....	92
78 Espionage and similar activities	93
79 Official secrets	95
80 Prohibited places.....	99
81 Harboursing spies	100
82 Search warrants.....	101
83 Unlawful soundings	102
83A Illegal use of uniforms, official permits, impersonation, &c.....	103
83B Arrest without warrant of offenders against this Part.....	105
84 Arrest of persons in or about prohibited places	106
84A Search of suspects.....	107
85 Institution of prosecution	107
85A Offences by companies, &c.....	107
85B Hearing in camera, &c.....	108
85C Imprints to be evidence.....	109
85D Forfeiture of articles, &c.....	109
Part VIIA—Offences relating to postal services	110
85E Interpretation—definitions.....	110
85F Interpretation—expressions used in Australian Postal Corporation Act	111
85G Forgery of postage stamps etc.	111
85H Special paper for postage stamps.....	112
85J Fraudulently removing postage stamps	113
85K Stealing articles in the course of post etc.....	113
85L Tampering with mail-bags etc.	114
85M Improperly obtaining articles in the course of post	114
85N Wrongful delivery of postal article etc.	114
85P Stealing postal messages etc.	115
85Q Forgery of postal messages etc.	115
85R Wrongful delivery of postal messages.....	116
85S Improper use of postal services	116
85T Sending false postal messages	116
85U Obstructing carriage of articles by post	117
85V Interference with property of Australia Post.....	117
85W Causing narcotic substances to be carried by post.....	117
85X Causing explosives to be carried by post etc.	118
85Y Hoax explosives etc.	118

85Z	Articles carried by post to be taken to be Australia Post's property	118
85ZA	Postage stamps to be valuable securities etc.....	119
Part VIIB—Offences relating to telecommunications services		120
85ZB	Interpretation—definitions.....	120
85ZC	Interpretation—expressions used in Telecommunications Act	120
85ZD	Wrongful delivery of communications	120
85ZE	Improper use of telecommunications services.....	121
85ZF	Fraudulent representations and devices	121
85ZG	Interference with telecommunications services.....	121
85ZH	Sending signals to satellite.....	122
85ZJ	Interference with carrier facilities.....	122
85ZK	Equipment used for unlawful purposes etc.....	122
Part VIII—Miscellaneous		123
86	Conspiracy	123
86A	Conspiracy to defraud.....	123
87	False certificates	124
88	Buying or selling offices.....	124
89	Trespassing on Commonwealth land.....	124
89A	Discharging firearms on or over Commonwealth land.....	125
90	Trespass by cattle or live stock.....	126
90A	Destroying, &c., posters, &c., relating to Commonwealth loans	127
90B	False statements in documents filed, &c., under laws of a Territory	127
91	Regulations	127
Endnotes		128
Endnote 1—About the endnotes		128
Endnote 2—Abbreviation key		130
Endnote 3—Legislation history		131
Endnote 4—Amendment history		136

An Act relating to offences against the Commonwealth

Part I—Preliminary

1 Short title

This Act may be cited as the *Crimes Act 1914*.

3 Interpretation

In this Act, unless the contrary intention appears—

Commonwealth officer means a person holding office under, or employed by, the Commonwealth, and includes—

- (a) an officer or employee within the meaning of the *Public Service Act 1922*;
- (aa) a person permanently or temporarily employed in the Public Service of a Territory or in, or in connection with, the Defence Force, or in the Service of a public authority under the Commonwealth;
- (b) a member or special member of the Australian Federal Police;
- (c) for the purposes of sections 70, 72, 73, 74 and 75, a person who, although not holding office under, or employed by, the Commonwealth, a Territory or a public authority under the Commonwealth, performs services for or on behalf of the Commonwealth, a Territory or a public authority under the Commonwealth; and
- (d) for the purposes of sections 70, 72, 73, 74, 75 and 76:
 - (i) a person who is an employee of the Australian Postal Corporation, the Australian Telecommunications Corporation, AUSSAT Pty Ltd or OTC Limited;
 - (ii) a person who performs services for or on behalf of the Australian Postal Corporation, the Australian

Section 3A

Telecommunications Corporation, AUSSAT Pty Ltd or OTC Limited; and

- (iii) an employee of a person who performs services for or on behalf of the Australian Postal Corporation, the Australian Telecommunications Corporation, AUSSAT Pty Ltd or OTC Limited;

constable means a member or special member of the Australian Federal Police or a member of the police force of a State or Territory;

have in possession includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;

property includes money and every thing, animate or inanimate, capable of being the subject of ownership;

public authority under the Commonwealth means any authority or body constituted by or under a law of the Commonwealth or of a Territory, and includes AUSSAT Pty Ltd and OTC Limited;

Queen's dominions includes a British protectorate and a British protected State;

State includes the Northern Territory;

Territory does not include the Northern Territory.

3A Operation of Act

This Act applies throughout the whole of the Commonwealth and the Territories and also applies beyond the Commonwealth and the Territories.

3B Arrangements with States, Northern Territory and Norfolk Island

- (1) The Governor-General may make arrangements with the Governor of a State, the Administrator of the Northern Territory or the Administrator of Norfolk Island for the exercise of powers and the performance of functions by officers of the State or Territory, and for the making available of facilities of the State or Territory, for and in relation to the carrying out of sentences passed, and orders made, under this Act.
- (2) In sections 18A and 20AB—
 - (a) a reference to a participating State is a reference to a State in relation to which an arrangement is in force under subsection (1) of this section; and
 - (b) a reference to a participating Territory—
 - (i) is a reference to a Territory other than Norfolk Island; and
 - (ii) if an arrangement is in force under subsection (1) of this section in relation to Norfolk Island—includes a reference to Norfolk Island.

Part IA—General

4 Application of common law

The principles of the common law with respect to criminal liability shall, subject to this Act, apply in relation to offences against this Act.

4A Meaning of certain words

In a law of the Commonwealth, unless the contrary intention appears:

committed for trial, in relation to a person, means committed to prison with a view to the person being tried before a judge and jury, or admitted to bail upon a recognizance to appear and be so tried;

indictment includes an information and a presentment.

4B Pecuniary penalties—natural persons and bodies corporate

- (1) A provision of a law of the Commonwealth relating to indictable offences or summary offences shall, unless the contrary intention appears, be deemed to refer to bodies corporate as well as to natural persons.
- (2) Where a natural person is convicted of an offence against a law of the Commonwealth punishable by imprisonment only, the court may, if the contrary intention does not appear and the court thinks it appropriate in all the circumstances of the case, impose, instead of, or in addition to, a penalty of imprisonment, a pecuniary penalty not exceeding an amount calculated using the formula:

$$\frac{\text{Term of Imprisonment}}{6} \times \$3,000$$

where:

Term of Imprisonment is the maximum term of imprisonment, expressed in months, by which the offence is punishable.

- (2A) Where a natural person is convicted of an offence against a law of the Commonwealth in respect of which a court may impose a penalty of imprisonment for life, the court may, if the contrary intention does not appear and the court thinks it appropriate in all the circumstances of the case, impose, instead of, or in addition to, a penalty of imprisonment, a pecuniary penalty not exceeding \$200,000.
- (3) Where a body corporate is convicted of an offence against a law of the Commonwealth, the court may, if the contrary intention does not appear and the court thinks fit, impose a pecuniary penalty not exceeding an amount equal to 5 times the amount of the maximum pecuniary penalty that could be imposed by the court on a natural person convicted of the same offence.
- (4) Where under a law of the Commonwealth any forfeiture, penalty or reparation is paid to a person aggrieved, it is payable to a body corporate where the body corporate is the person aggrieved.

4C Offences under 2 or more laws

- (1) Where an act or omission constitutes an offence:
- (a) under 2 or more laws of the Commonwealth; or
 - (b) both under a law of the Commonwealth and at common law;
- the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those laws of the Commonwealth or at common law, but shall not be liable to be punished twice for the same act or omission.
- (2) Where an act or omission constitutes an offence under both:
- (a) a law of the Commonwealth and a law of a State; or
 - (b) a law of the Commonwealth and a law of a Territory;
- and the offender has been punished for that offence under the law of the State or the law of the Territory, as the case may be, the

Section 4D

offender shall not be liable to be punished for the offence under the law of the Commonwealth.

- (3) Where an act or omission constitutes an offence against a law of a Territory, the validity of that law is not affected merely because the act or omission also constitutes an offence against a law of the Commonwealth.

4D Penalties

- (1) Except so far as the contrary intention appears, a penalty, whether pecuniary or otherwise, set out:

- (a) at the foot of any section of an Act; or
(b) at the foot of any subsection of any section of an Act, but not at the foot of the section;

indicates that any contravention of the section or subsection, as the case may be, is an offence against the Act, punishable upon conviction by a penalty not exceeding the penalty so set out.

- (2) Subsection (1) applies to any instrument made under an Act (including rules, regulations or by-laws but not including a law of a Territory) as if the instrument were an Act and as if each such rule, regulation or by-law were a section of an Act.

4E Pecuniary penalties

A pecuniary penalty for an offence against a law of the Commonwealth may, unless the contrary intention appears, be recovered in any court of summary jurisdiction.

4F Effect of alterations in penalties

- (1) Where a provision of a law of the Commonwealth increases the penalty or maximum penalty for an offence, the penalty or maximum penalty as increased applies only to offences committed after the commencement of that provision.
- (2) Where a provision of a law of the Commonwealth reduces the penalty or maximum penalty for an offence, the penalty or

maximum penalty as reduced extends to offences committed before the commencement of that provision, but the reduction does not affect any penalty imposed before that commencement.

4G Indictable offences

Offences against a law of the Commonwealth punishable by imprisonment for a period exceeding 12 months are indictable offences, unless the contrary intention appears.

4H Summary offences

Offences against a law of the Commonwealth, being offences which:

- (a) are punishable by imprisonment for a period not exceeding 12 months; or
 - (b) are not punishable by imprisonment;
- are summary offences, unless the contrary intention appears.

4J Certain indictable offences may be dealt with summarily

- (1) Subject to subsection (2), an indictable offence (other than an offence referred to in subsection (4)) against a law of the Commonwealth, being an offence punishable by imprisonment for a period not exceeding 10 years, may, unless the contrary intention appears, be heard and determined, with the consent of the prosecutor and the defendant, by a court of summary jurisdiction.
- (2) Subsection (1) does not apply in relation to an indictable offence where, under a law of the Commonwealth other than this Act, that offence may be heard and determined by a court of summary jurisdiction.
- (3) Subject to subsection (6), where an offence is dealt with by a court of summary jurisdiction under subsection (1), the court may impose:
 - (a) where the offence is punishable by imprisonment for a period not exceeding 5 years—a sentence of imprisonment for a

Section 4K

period not exceeding 12 months or a fine not exceeding \$6,000, or both; or

- (b) where the offence is punishable by imprisonment for a period exceeding 5 years but not exceeding 10 years—a sentence of imprisonment for a period not exceeding 2 years or a fine not exceeding \$12,000, or both.
- (4) A court of summary jurisdiction may, if it thinks fit, upon the request of the prosecutor, hear and determine any proceeding in respect of an indictable offence against a law of the Commonwealth if the offence relates to property whose value does not exceed \$500.
- (5) Subject to subsection (6), where an offence is dealt with by a court of summary jurisdiction under subsection (4), the court may impose a sentence of imprisonment for a period not exceeding 12 months or a fine not exceeding \$6,000, or both.
- (6) A court of summary jurisdiction shall not impose under subsection (3) or (5):
- (a) a sentence of imprisonment for a period exceeding the maximum period that could have been imposed had the offence been tried on indictment;
 - (b) a fine exceeding the maximum fine that could have been imposed had the offence been so tried; or
 - (c) both a sentence of imprisonment and a fine if the offence is punishable on trial on indictment by a sentence of imprisonment or a fine, but not both.
- (7) This section does not apply in relation to an offence against section 24, 24AA, 24AB or 78 or subsection 79(2) or (5).

4K Continuing and multiple offences

- (1) Where, under a law of the Commonwealth, an act or thing is required to be done within a particular period or before a particular time, then, unless the contrary intention appears, the obligation to do that act or thing continues, notwithstanding that the period has expired or the time has passed, until the act or thing is done.

- (2) Where a refusal or failure to comply with a requirement referred to in subsection (1) is an offence against a law of the Commonwealth, a person is guilty of an offence in respect of each day during which the person refuses or fails to comply with that requirement, including the day of a conviction for any such offence or any later day.
- (3) Charges against the same person for any number of offences against the same provision of a law of the Commonwealth may be joined in the same information, complaint or summons if those charges are founded on the same facts, or form, or are part of, a series of offences of the same or a similar character.
- (4) If a person is convicted of 2 or more offences referred to in subsection (3), the court may impose one penalty in respect of both or all of those offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a separate penalty were imposed in respect of each offence.

5 Aiders and abettors

- (1) Any person who aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in, or party to, the commission of any offence against any law of the Commonwealth, whether passed before or after the commencement of this Act, shall be deemed to have committed that offence and shall be punishable accordingly.
- (2) Any act or omission that constitutes an offence against section 73 of the *Defence Act 1903* does not constitute an offence by virtue of subsection (1) of this section.

6 Accessory after the fact

Any person who receives or assists another person, who is, to his knowledge, guilty of any offence against a law of the Commonwealth, in order to enable him to escape punishment or to dispose of the proceeds of the offence shall be guilty of an offence.

Section 7

Penalty: Imprisonment for 2 years.

7 Attempts

Any person who attempts to commit any offence against any law of the Commonwealth, whether passed before or after the commencement of this Act, shall be guilty of an offence and shall be punishable as if the attempted offence had been committed.

7A Inciting to or urging the commission of offences

If any person—

- (a) incites to, urges, aids or encourages; or
- (b) prints or publishes any writing which incites to, urges, aids or encourages,

the commission of offences against any law of the Commonwealth or the carrying on of any operations for or by the commission of such offences, he shall be guilty of an offence.

Penalty: Imprisonment for 12 months.

8 Power of arrest without warrant

The powers of arrest without warrant possessed by a constable, or by any person, under the common law, with respect to breaches of the peace, may be exercised by any constable, or by any person, as the case may be, with respect to offences against this Act which involve any breach of the peace.

8A Arrest without warrant for suspected offences

Any constable may, without warrant, arrest any person, if the constable has reasonable ground to believe—

- (a) that the person has committed an offence against a law of the Commonwealth; and
- (b) that proceedings against the person by summons would not be effective.

9 Seizure and condemnation of forfeitable goods

- (1) Any constable may, without warrant, seize any articles which are forfeited or which he has reasonable ground to believe are forfeited under any law of the Commonwealth, and take them before a court of summary jurisdiction.
- (2) Where articles are taken before a court of summary jurisdiction under subsection (1), the court shall inquire into the matter and—
 - (a) if the court is satisfied that the articles are forfeited—shall order that the articles be condemned; or
 - (b) if the court is not so satisfied—shall order that the articles be delivered to such person as the court is satisfied is entitled to the articles.
- (2A) A court of summary jurisdiction may, before inquiring into a matter under subsection (2), require notice of the inquiry to be given to such persons as the court thinks fit.
- (3) Where any prosecution is pending, an order for the condemnation or the delivery to any person of any articles relating thereto shall not be made until the prosecution is determined.
- (4) All articles which are condemned as forfeited shall be dealt with as directed by the Attorney-General, and pending his direction may be detained in such custody as the court directs.

10 Search warrant

- (1) If a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting that there is in or upon any premises, aircraft, vehicle, vessel or place:
 - (a) anything with respect to which any offence against any law of the Commonwealth or of a Territory has been, or is suspected on reasonable grounds to have been, committed;
 - (b) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of any such offence; or

Section 13

(c) anything as to which there is reasonable ground for believing that it is intended to be used for the purpose of committing any such offence;

or that any such thing may, within the next following 72 hours, be brought into or upon the premises, aircraft, vehicle, vessel or place, the Justice of the Peace may grant a search warrant authorising any constable named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to enter at any time the premises, aircraft, vehicle, vessel or place named or described in the warrant, and to seize any such thing which he or she might find there.

- (1A) A constable named in a warrant may, where it is necessary and reasonable to do so for the purposes of executing the warrant, break open such doors and receptacles as are in or upon the premises, aircraft, vehicle, vessel or place named or described in the warrant and may do so with such assistance, and by such force, as is necessary and reasonable.
- (2) Subsection (1) is not intended, and shall be deemed never to have been intended, to limit or exclude the operation of a law of a Territory relating to the search of premises, aircraft, vehicles, vessels, places or persons in connection with offences against any law of that Territory.

13 Institution of proceedings in respect of offences

Unless the contrary intention appears in the Act or regulation creating the offence, any person may—

- (a) institute proceedings for the commitment for trial of any person in respect of any indictable offence against the law of the Commonwealth; or
- (b) institute proceedings for the summary conviction of any person in respect of any offence against the law of the Commonwealth punishable on summary conviction.

14 Proof of exceptions, &c.

Where any person is charged, before a court of summary jurisdiction, with an offence against the law of the Commonwealth, any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in the section of the law creating the offence, may be proved by the person charged, but need not be specified or negatived in the information, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant.

15 Remand of defendant

Where a person is charged, before a court of summary jurisdiction, with an offence against the law of the Commonwealth, if, from the absence of witnesses or from any other reasonable cause, it becomes necessary or advisable to defer the hearing of the case, the court before whom the accused person appears or is brought may—

- (a) by warrant from time to time remand the defendant to some gaol, lock-up, or other place of custody for such period as the court shall deem necessary to be there kept until the time appointed for continuing, the hearing, or
- (b) order the discharge of the defendant upon his entering into, a recognizance conditioned for his appearance at the time and place appointed for continuing the hearing.

17 Habitual criminals

- (1) Where a person convicted of an indictable offence against the law of the Commonwealth has been previously convicted on at least 2 occasions of indictable offences against the law of the Commonwealth, or of a State, or of a Territory, the court before which he is convicted may declare that he is a habitual criminal, and may direct, as part of his sentence, that on the expiration of the term of imprisonment then imposed upon him, he be detained in prison during the pleasure of the Governor-General.

Section 17A

- (2) The court, before passing sentence, may, if it thinks fit, hear evidence to enable it to determine whether or not the person so convicted should be declared a habitual criminal.
- (3) For the purposes of this section, the ***Governor-General*** means the Governor-General of the Commonwealth, or the person for the time being administering the government of the Commonwealth, acting with the advice of the Attorney-General.

17A Restriction on imposing sentences of imprisonment

- (1) A court shall not pass a sentence of imprisonment on any person for an offence against the law of the Commonwealth, or of the Australian Capital Territory or an external Territory that is prescribed for the purposes of this section, unless the court, after having considered all other available sentences, is satisfied that no other sentence is appropriate in all the circumstances of the case.
- (2) Where a court passes a sentence of imprisonment on a person for an offence against the law of the Commonwealth, or of the Australian Capital Territory or an external Territory that is prescribed for the purposes of this section, the court—
 - (a) shall state the reasons for its decision that no other sentence is appropriate; and
 - (b) shall cause those reasons to be entered in the records of the court.
- (3) The failure of a court to comply with the provisions of this section does not invalidate any sentence.
- (4) This section does not apply in relation to—
 - (a) an offence against this Act that is punishable by imprisonment for life or for a period of, or exceeding, 7 years; or
 - (b) any other offence against the law of the Commonwealth, or any offence against the law of the Australian Capital Territory or an external Territory that is prescribed for the purposes of this section, that is punishable only by imprisonment.

- (5) For the purposes of paragraph (4)(b), an offence shall be regarded as punishable only by imprisonment if the court is empowered to pass a sentence of imprisonment for the offence, but is not empowered to impose a fine or other pecuniary penalty on a natural person for the offence or is empowered to impose a fine or other pecuniary penalty on a natural person for the offence only as a condition of an order discharging or releasing the person.

18 Sentence of imprisonment

- (1) Where imprisonment is imposed in respect of any offence against any law of the Commonwealth it may (unless the contrary intention appears in the law) be imposed either with or without hard labour.
- (2) Where under the law of a State or Territory a convicted person may in particular cases be imprisoned in a particular kind or class of prison, a person convicted of an offence against the law of the Commonwealth may, in corresponding cases, be imprisoned in the kind or class of prison appropriate to the circumstances.

18A Enforcement of fines etc.

- (1) The laws of a State or Territory with respect to the enforcement and recovery of fines ordered to be paid by offenders, including laws making provision for or in relation to—
- (a) the awarding of imprisonment, or, in the case of a participating State or a participating Territory, the passing or making of any other sentence or order (including a sentence or order known as a community service order, a work order or a sentence of weekend detention, or a similar sentence or order), in default of the payment of fines;
 - (b) the allowance of time, or further time, for payment of fines;
 - (c) the payment of fines by instalments; or
 - (d) the giving of security for the payment of fines,
- shall, so far as those laws are applicable and are not inconsistent with the laws of the Commonwealth, apply and be applied to persons who are convicted in that State or Territory of offences against laws of the Commonwealth.

Section 19

- (1A) Where there is a law of a State or Territory with respect to the enforcement or recovery of fines ordered to be paid by offenders (including a law making provision for or in relation to a matter mentioned in paragraph (1)(a), (b), (c) or (d)) that applies in relation to fines ordered to be paid by offenders convicted by courts of summary jurisdiction—
- (a) subsection (1) operates to require that law to apply and be applied to persons who are convicted of offences against laws of the Commonwealth by the Federal Court of Australia in the same manner as that law would apply and be applied if that Court were a court of summary jurisdiction; and
 - (b) that subsection does not operate in relation to any law of that State or Territory that applies in relation to fines ordered to be paid by offenders convicted by superior courts.
- (2) A reference in this section to fines shall be read as including a reference to pecuniary penalties (other than pecuniary penalties imposed by pecuniary penalty orders made under the *Proceeds of Crime Act 1987*), costs or other amounts ordered to be paid by offenders.

19 Cumulative sentences of imprisonment

- (1) Where a person who is convicted of an offence against the law of the Commonwealth—
- (a) is at the time of his conviction serving a term of imprisonment for another offence (whether against the law of the Commonwealth or of a State or Territory); or
 - (b) has been sentenced to serve a term of imprisonment (otherwise than in default of the payment of a fine) for another offence (whether against the law of the Commonwealth or of a State or Territory), but has not at the time of his conviction commenced to serve that term of imprisonment,
- the court before which the person is convicted may, by order, direct that any term of imprisonment imposed for or in respect of the first-mentioned offence (including a term of imprisonment in default of the payment of a fine imposed for the offence) shall

commence at the expiration of the term of imprisonment that the person is so serving or had been so sentenced to serve, as the case may be.

- (2) Where—
- (a) a person is convicted of 2 or more offences against the law of the Commonwealth before the same court at the same sitting; and
 - (b) the person is sentenced to—
 - (i) 2 or more terms of imprisonment for the offences;
 - (ii) a term or terms of imprisonment for one or more of the offences and a term or terms of imprisonment in default of the payment of a fine or fines imposed for the other offence or offences; or
 - (iii) 2 or more terms of imprisonment in default of the payment of fines imposed for the offences,
- the court may, by order, direct that all or some of the sentences shall be cumulative.
- (3) Where 2 or more sentences are, under subsection (2), directed to be cumulative, they shall take effect one after the other in such order as the court directs or, in default of such a direction, in accordance with the order in which the convictions are recorded.
- (4) Where—
- (a) a person is convicted of an offence or offences against the law of the Commonwealth, and an offence or offences against the law of a State or Territory, before the same court at the same sitting; and
 - (b) the person is sentenced to—
 - (i) 2 or more terms of imprisonment for the offences;
 - (ii) a term or terms of imprisonment for one or more of the offences and a term or terms of imprisonment in default of the payment of a fine or fines imposed for the other offence or offences; or
 - (iii) 2 or more terms of imprisonment in default of the payment of fines imposed for the offences,

Section 19A

the court may, by order, direct that the sentence passed for the offence, or all or any of the sentences passed for the offences, against the law of the Commonwealth shall take effect after the sentence passed for the offence, or all or any of the sentences passed for the offences, against the law of the State or Territory, but nothing in this subsection shall be taken to prevent the court from directing that a sentence passed for an offence against the law of the State or Territory shall take effect after sentence passed for an offence against the law of the Commonwealth.

- (5) Where—
- (a) a person is convicted of an offence against the law of the Commonwealth; and
 - (b) the person is sentenced to a term of imprisonment for the offence and also to a term of imprisonment in default of the payment of a fine imposed for the offence,
- the court may, by order, direct that the term of imprisonment in default of the payment of the fine shall take effect after the other term of imprisonment.
- (6) Nothing in this section shall be taken to prevent a court from directing that any sentences of imprisonment shall be served concurrently.
- (7) A reference in this section to a fine shall be read as including a reference to a pecuniary penalty, an amount in respect of costs or any other amount ordered to be paid by an offender for or in respect of an offence.

19A Licences for offenders to be at large

- (1) In this section—
- licence*** means a licence to be at large granted under subsection (2);
- prescribed authority*** means—
- (a) a person who holds office as a Chief, Police, Stipendiary, Resident or Special Magistrate of a State and in respect of

whom an arrangement in force under subsection (15) is applicable; or

- (b) a person who holds office as a Chief, Police, Stipendiary, Resident or Special Magistrate, or a District-Officer or Assistant District Officer, of a Territory;

the prescribed period, in relation to a licence, means—

- (a) if the person to whom the licence was granted was, at the time when the licence was granted, serving a term of imprisonment—the period commencing on the day on which the licence was granted and ending on the day which, if no remissions of his sentence were granted, would be the last day of that term; or
- (b) if the person to whom the licence was granted was, at the time when the licence was granted, being detained in prison by virtue of a direction given under section 17—the period of 3 years commencing on the day on which the licence was granted.
- (2) Where—
- (a) a person is serving a term of imprisonment for an offence against a law of the Commonwealth; or
- (b) a person is being detained in prison by virtue of a direction given under section 17,
- the Governor-General may, if he thinks it proper so to do in the circumstances, grant to that person, by writing under his hand, a licence to be at large.
- (3) A licence is sufficient authority for the release from prison of the person to whom it is granted.
- (4) A licence is subject to such conditions, if any, as are specified in the licence.
- (5) The Governor-General may, at any time before the expiration of the prescribed period, by writing under his hand—
- (a) vary or revoke a condition of a licence or impose additional conditions; or

Section 19A

- (b) revoke a licence.
- (6) The varying of a condition, or the imposing of an additional condition, under subsection (5) does not have effect until notice thereof has been given to the person to whom the licence was granted, being notice given before the expiration of the prescribed period.
- (7) Where—
- (a) a licence granted to a person is revoked; or
 - (b) the person to whom a licence has been granted has, during the prescribed period, failed to comply with a condition of the licence or there are reasonable grounds for suspecting that he has, during that period, failed to comply with a condition of the licence,
- a constable may, without warrant, arrest the person.
- (8) Where a constable arrests a person in pursuance of subsection (7) on a ground specified in paragraph (7)(b), the constable shall, as soon as practicable, take that person before a prescribed authority and, if the prescribed authority is satisfied that that person without lawful excuse failed to comply with a condition of the licence granted to him, the prescribed authority shall cancel the licence.
- (9) A person brought before a prescribed authority under subsection (8) shall, unless the prescribed authority otherwise directs, be kept in custody until the prescribed authority has determined the matter.
- (10) Where a licence granted to a person who, at the time of the grant, was serving a term of imprisonment is revoked or cancelled, the person may, subject to subsection (12), be detained in prison to undergo imprisonment for the part of that term that he had not served at the time when he was released from prison in pursuance of the licence.
- (11) Where a licence granted to a person who, at the time of the grant, was being detained in prison by virtue of a direction given under section 17 is revoked or cancelled, the person may, subject to

subsection (12), be detained in prison during the pleasure of the Governor-General as if the licence had not been granted.

- (12) Where a prescribed authority cancels a licence under subsection (8), the person to whom the licence was granted may appeal to the Supreme Court of a State or Territory against the cancellation and the Court shall—
- (a) if it is satisfied that the ground on which the licence was cancelled has been established—confirm the cancellation; or
 - (b) if it is not so satisfied—order that the cancellation cease to have effect.
- (13) An appeal under subsection (12) shall be by way of re-hearing, but the Court may have regard to any evidence given before the prescribed authority.
- (14) For the purposes of the preceding provisions of this section, *the Governor-General* means the Governor-General of the Commonwealth, or the person for the time being administering the government of the Commonwealth, acting with the advice of the Attorney-General.
- (15) The Governor-General may arrange with the Governor of a State for the performance by persons who hold office as Chief, Police, Stipendiary, Resident or Special Magistrates in that State of the functions of a prescribed authority under this section.
- (16) Notice of an arrangement under subsection (15) shall be published in the *Gazette*.

19B Discharge of offenders without proceeding to conviction

- (1) Where—
- (a) a person is charged before a court with an offence against the law of the Commonwealth; and
 - (b) the court is satisfied that the charge is proved, but is of the opinion, having regard to—
 - (i) the character, antecedents, age, health or mental condition of the person;

Section 19B

- (ii) the extent (if any) to which the offence is of a trivial nature; or
- (iii) the extent (if any) to which the offence was committed under extenuating circumstances, that it is inexpedient to inflict any punishment, or to inflict any punishment other than a nominal punishment, or that it is expedient to release the offender on probation,

the court may, by order—

- (c) dismiss the charge; or
- (d) discharge the person, without proceeding to conviction, upon his giving security, with or without sureties, by recognizance or otherwise, to the satisfaction of the court, that he will comply with the following conditions:
 - (i) that he will be of good behaviour for such period, not exceeding 3 years, as the court specifies in the order;
 - (ii) that he will make such reparation or restitution, or pay such compensation, in respect of the offence (if any), or pay such costs in respect of his prosecution for the offence (if any), as the court specifies in the order (being reparation, restitution, compensation or costs that the court is empowered to require the person to make or pay)—
 - (A) on or before a date specified in the order; or
 - (B) in the case of reparation or restitution by way of money payment or in the case of the payment of compensation or an amount of costs—by specified instalments as provided in the order; and
 - (iii) that he will, during the period specified in the order in accordance with subparagraph (i), comply with such other conditions (if any) as the court thinks fit to specify in the order, which conditions may include the condition that the person will, during the period so specified, be subject to the supervision of a probation officer appointed in accordance with the order and obey all

reasonable directions of a probation officer so appointed.

- (2) Where a court proposes to discharge a person in pursuance of an order made under subsection (1), it shall, before making the order, explain or cause to be explained to the person, in language likely to be readily understood by him—
 - (a) the purpose and effect of the proposed order;
 - (b) the consequences that may follow if he fails, without reasonable cause or excuse, to comply with the conditions of the proposed order; and
 - (c) that any recognizance given in accordance with the order may be discharged or varied under section 20AA.
- (3) Where a charge against a person is dismissed, or a person is discharged, in pursuance of an order made under subsection (1)—
 - (a) the person shall have such rights of appeal on the ground that he was not guilty of the offence with which he was charged as he would have had if the court had convicted him of the offence; and
 - (b) there shall be such rights of appeal in respect of the manner in which the person is dealt with for the offence as there would have been if—
 - (i) the court had, immediately before so dealing with him, convicted him of the offence; and
 - (ii) the manner in which he is dealt with had been a sentence passed upon that conviction.
- (4) Where a person is discharged in pursuance of an order made under subsection (1), the court shall, as soon as practicable, cause the order to be reduced to writing and a copy of the order to be given to, or served on, the person.

20 Conditional release of offenders after conviction

- (1) Where a person is convicted of an offence against the law of the Commonwealth, the court before which he is convicted may, if it thinks fit—
-

Section 20

- (a) by order, release the person, without passing sentence on him, upon his giving security, with or without sureties, by recognizance or otherwise, to the satisfaction of the court, that he will comply with the following conditions:
 - (i) that he will be of good behaviour for such period, not exceeding 5 years, as the court specifies in the order;
 - (ii) that he will make such reparation or restitution, or pay such compensation, in respect of the offence (if any), or pay such costs in respect of his prosecution for the offence (if any), as the court specifies in the order (being reparation, restitution, compensation or costs that the court is empowered to require the person to make or pay)—
 - (A) on or before a date specified in the order; or
 - (B) in the case of reparation or restitution by way of money payment or in the case of the payment of compensation or an amount of costs—by specified instalments as provided in the order;
 - (iii) that he will pay to the Commonwealth such pecuniary penalty (if any) as the court specifies in the order (being a penalty not exceeding the maximum amount of the penalty that, in accordance with subsection (5), the court may specify in respect of the offence) on or before a date specified in the order or by specified instalments as provided in the order; and
 - (iv) that he will, during the period specified in the order in accordance with subparagraph (i), comply with such other conditions (if any) as the court thinks fit to specify in the order, which conditions may include the condition that the person will, during the period so specified, be subject to the supervision of a probation officer appointed in accordance with the order and obey all reasonable directions of a probation officer so appointed; or
- (b) sentence the person to a term of imprisonment but direct, by order, that the person be released, upon his giving security of

the kind referred to in paragraph (a), either forthwith or after he has served a specified part of the term of imprisonment.

- (2) Where a court proposes to release a person, or direct that a person be released, in pursuance of an order made under subsection (1), it shall, before making the order, explain or cause to be explained to the person, in language likely to be readily understood by him—
 - (a) the purpose and effect of the proposed order;
 - (b) the consequences that may follow if he fails, without reasonable cause or excuse, to comply with the conditions of the proposed order; and
 - (c) that any recognizance given in accordance with the order may be discharged or varied under section 20AA.
- (3) Where a person is released in pursuance of an order made under subsection (1) without sentence being passed on him, there shall be such rights of appeal in respect of the manner in which the person is dealt with for the offence in respect of which the order is made as there would have been if the manner in which he is dealt with had been a sentence passed upon his conviction for that offence.
- (4) Where an order is made under subsection (1) in respect of a person, the court shall, as soon as practicable, cause the order to be reduced to writing and a copy of the order to be given to, or served on, the person.
- (5) The maximum amount of the penalty that a court may specify in respect of an offence in an order made under subsection (1) in relation to a person is—
 - (a) where the offence is punishable by a fine—the amount of the maximum fine that the court is empowered to impose on the person for the offence; or
 - (b) where the offence is not punishable by a fine—
 - (i) if the court is not a court of summary jurisdiction—\$30,000; or
 - (ii) if the court is a court of summary jurisdiction—\$6,000.

20A Failure to comply with condition of discharge or release

- (1) Where a person has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), and information is laid before a magistrate, whether before or after the expiration of the period specified in the order in accordance with subparagraph 19B(1)(d)(i) or 20(1)(a)(i), alleging that the person has, without reasonable cause or excuse, failed to comply with a condition of the order, the magistrate may—
 - (a) issue a summons directing the person to appear, on a date, at a time and at a place fixed in the summons, before the court by which the order was made; or
 - (b) if the information is laid on oath and the magistrate is of the opinion that proceedings against the person by summons might not be effective—issue a warrant for the apprehension of the person.
- (2) Where—
 - (a) a person who is served with a summons issued under subsection (1) fails to attend before the court as required by the summons; or
 - (b) a person who has been admitted to bail under subsection (4) fails to attend before the court as required by the conditions of his bail,the court may, on proof of the service of the summons or of the admission of the person to bail, as the case may be, issue a warrant for the apprehension of the person.
- (3) A warrant issued under subsection (1) or (2) shall authorize the apprehension of the person, the bringing of the person before the court as soon as practicable after his apprehension and the detention of the person in custody until he is released by order of the court or in accordance with subsection (4).
- (4) Where a person is apprehended in pursuance of a warrant issued under subsection (1) or (2) and the court before which he is to be

brought is not sitting at the time of his arrest, the person shall be brought before a magistrate, who may—

- (a) admit the person to bail, on such recognizance (with or without sureties) as the magistrate thinks fit and on the condition that the person appears, on such date, at such time and at such place as the magistrate specifies, before that court; or
 - (b) direct that the person be kept in custody in accordance with the warrant.
- (5) Where, in accordance with this section, a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), appears or is brought before the court by which the order was made, the court (whether or not constituted by the judge or magistrate who made the order), if it is satisfied that the person has, without reasonable cause or excuse, failed to comply with a condition of the order, may—
- (a) in the case of a person who has been discharged in pursuance of an order made under subsection 19B(1)—
 - (i) revoke the order, convict the person of the offence in respect of which the order was made and, subject to subsection (6), deal with the person, for that offence, in any manner in which he could have been dealt with for that offence if the order had not been made; or
 - (ii) take no action; or
 - (b) in the case of a person who has been released in pursuance of an order made under subsection 20(1)—
 - (i) without prejudice to the continuance of the order, impose a pecuniary penalty not exceeding \$1,000 on the person;
 - (ii) revoke the order and, subject to subsection (6), deal with the person, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence if the order had not been made and he was before the court for sentence in respect of the offence; or
-

Section 20A

- (iii) take no action.
- (6) Where a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), is dealt with under subsection (5) for the offence in respect of which the order was made, the court, in so dealing with the person, shall, in addition to any other matters that the court considers should be taken into account, take into account—
- (a) the fact that the order was made;
 - (b) anything done under the order;
 - (c) any other order made in respect of the offence; and
 - (d) in the case of a person who has been released in pursuance of an order made under subsection 20(1)—any period of imprisonment served by him for the offence.
- (7) Where a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), is dealt with under subsection (5) for the offence in respect of which the order was made, the court may, in addition to dealing with him for that offence, order that any recognizance entered into by him, or by a surety for him, shall be estreated and any other security given by or in respect of him shall be enforced.
- (8) Where a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), is dealt with under subsection (5) for the offence in respect of which the order was made, there shall be such rights of appeal in respect of the manner in which the person is dealt with for that offence as there would have been if—
- (a) in the case of a person who has been discharged in pursuance of an order made under subsection 19B(1)—the manner in which he is dealt with had been a sentence passed upon his conviction for the offence; or
 - (b) in the case of a person who has been released in pursuance of an order made under subsection 20(1)—
-

- (i) the court had, immediately before so dealing with him, convicted him of the offence; and
 - (ii) the manner in which he is dealt with had been a sentence passed upon that conviction.
- (9) A pecuniary penalty imposed on a person by virtue of subparagraph (5)(b)(i) shall, for the purposes of the laws of the Commonwealth, and of the States and Territories, with respect to the enforcement and recovery of fines ordered to be paid by offenders, be deemed to be a fine imposed on the person upon his conviction for an offence against the law of the Commonwealth.

20AA Power to discharge or vary conditions of recognizance

- (1) Where a person has entered into a recognizance in pursuance of an order made under subsection 19B(1) or 20(1), any of the following persons may apply to the court by which the order was made for the discharge of the recognizance or for a variation of its terms:
- (a) an authorized person;
 - (b) the person who entered into the recognizance;
 - (c) a surety for the person who entered into the recognizance;
 - (d) a probation officer appointed in accordance with the order (in this section referred to as a *probation officer*).
- (2) Where an application is made under subsection (1) for the discharge of a recognizance, the court (whether or not constituted by the judge or magistrate who made the order in pursuance of which the recognizance was entered into) may, if it is satisfied that notice as required by subsection (5) or (6) has been given and that the conduct of the person who entered into the recognizance has been such as to make it unnecessary that he should remain bound by the recognizance, discharge the recognizance.
- (3) Where an application is made under subsection (1) for a variation of the terms of a recognizance, the court (whether or not constituted by the judge or magistrate who made the order in pursuance of which the recognizance was entered into) may, if it is satisfied that notice as required by subsection (5) or (6) has been

Section 20AA

given and it thinks fit to do so, vary the terms of the recognizance in all or any of the following ways:

- (a) by extending or reducing the duration of the recognizance;
 - (b) by altering the conditions of the recognizance;
 - (c) by inserting additional conditions in the recognizance;
 - (d) by reducing any liability to make reparation or restitution, by reducing any instalment of any reparation or restitution or by reducing the amount of, or of any instalment of, any costs, compensation or penalty; or
 - (e) by altering the manner in which any reparation, restitution, compensation, costs or penalty, or any instalment or any reparation, restitution, compensation, costs or penalty, is or are to be made or paid.
- (4) The court shall not extend the duration of a recognizance beyond—
- (a) in the case of a recognizance entered into in pursuance of an order made under subsection 19B(1)—the period of 3 years from the date on which the recognizance was entered into; or
 - (b) in the case of a recognizance entered into in pursuance of an order made under subsection 20(1)—the period of 5 years from the date on which the recognizance was entered into.
- (5) Where an application is made under subsection (1) by an authorized person, the authorized person shall cause notice of the application and the date, time and place fixed for the hearing of the application, to be served on the person who entered into the recognizance in relation to which the application is made and—
- (a) if that person has a surety in respect of the recognizance—on the surety; and
 - (b) if that person has a probation officer in respect of the recognizance—on the probation officer.
- (6) Where an application is made under subsection (1) by a person other than an authorized person, the person making the application shall cause notice of the application, and of the date, time and place fixed for the hearing of the application, to be served on the Director of Public Prosecutions or, if the Director of Public

Prosecutions has not established an office in the State or Territory in which the application is made, on the Director of Legal Services, in that State or Territory, in the Attorney-General's Department, and—

- (a) if the application is made by the person who entered into the recognizance and that person has a surety—on the surety;
 - (b) if the application is made by a surety in respect of the recognizance—on the person who entered into the recognizance; or
 - (c) if the application is made by a probation officer in respect of the recognizance—on the person who entered into the recognizance and, if that person has a surety in respect of the recognizance, on the surety.
- (7) Where notice of an application under subsection (1) is served on a surety, the surety is entitled to appear on the hearing of the application and seek to be released from his liability as a surety in respect of the recognizance.
- (8) Subject to subsections (9) and (10), where under this section a court varies the terms of a recognizance, a person who is a surety in respect of the recognizance, and is not released by the court from his liability, continues to be liable as a surety in respect of the recognizance as so varied.
- (9) Where under this section a court varies the terms of a recognizance in respect of which a person is a surety—
- (a) if the recognizance is varied by extending its duration—the surety ceases to be liable after the expiration of the period for which he agreed to be liable when he became a surety;
 - (b) if the recognizance is varied by altering a condition—the surety is not liable in respect of non-compliance with that condition as altered; and
 - (c) if the recognizance is altered by the addition of a condition—the surety is not liable in respect of non-compliance with the additional condition,
- unless he agrees to be liable in respect of the recognizance as so varied.
-

Section 20AB

- (10) Where under this section a court varies the terms of a recognizance in respect of which a person is a surety by altering a condition, the court shall give directions as to the extent (if any) to which the surety is to continue to be liable in respect of the condition as it existed before the alteration, and the surety continues to be liable in respect of the condition to that extent but not otherwise.
- (11) Where under this section a court varies the terms of a recognizance—
- (a) corresponding variations shall, by force of this subsection, be deemed to have been made to the conditions of the order in pursuance of which the recognizance was entered into; and
 - (b) section 20A applies to and in relation to the order, in respect of acts or things done or omitted to be done after the variation, as if references in that section to the conditions of the order were references to the conditions of the order as so deemed to be varied.
- (12) In this section, *authorized person* means the Attorney-General, the Director of Public Prosecutions or a person appointed under section 69 of the *Judiciary Act 1903* to prosecute indictable offences against the laws of the Commonwealth.

20AB Additional sentencing alternatives

- (1) Where under the law of a participating State or a participating Territory a court is empowered in particular cases to pass a sentence or make an order known as a community service order, a work order, a sentence of periodic detention, an attendance centre order, a sentence of weekend detention or an attendance order, or to pass or make a similar sentence or order or a sentence or order that is prescribed for the purposes of this section, in respect of a person convicted of an offence against the law of the State or Territory, such a sentence or order may in corresponding cases be passed or made by that court or any federal court in respect of a person convicted before that first-mentioned court, or before that federal court in that State or Territory, of an offence against the law of the Commonwealth.

- (2) Where a court proposes to pass a sentence, or make an order, under subsection (1), it shall, before passing the sentence or making the order, explain or cause to be explained to the person in respect of whom it is proposed to pass the sentence or make the order, in language likely to be readily understood by him—
- (a) the purpose and effect of the proposed sentence or order;
 - (b) the consequences that may follow if he fails, without reasonable cause or excuse, to comply with the proposed sentence or order or with any requirements made in relation to the proposed sentence or order by or under the provisions of the laws of the relevant State or Territory that will apply in relation to the proposed sentence or order by virtue of subsection (3); and
 - (c) if the proposed sentence or order may be revoked or varied under those provisions—that the proposed sentence or order may be so revoked or varied.
- (3) Where a sentence or order referred to in subsection (1) is passed or made under that subsection in respect of a person convicted in a State or Territory of an offence against the law of the Commonwealth, the provisions of the laws of the State or Territory with respect to such a sentence or order that is passed or made under those laws shall, so far as those provisions are capable of application and are not inconsistent with the laws of the Commonwealth, apply, by virtue of this subsection, to and in relation to the sentence or order passed or made under subsection (1).
- (4) Where a court passes a sentence, or makes an order, under subsection (1) in respect of a person convicted of an offence against the law of the Commonwealth, the court may also do all or any of the following—
- (a) impose any fine or other pecuniary penalty that the court is empowered to impose on the person for the offence;
 - (b) make any order requiring the person to make reparation or restitution, or pay compensation, in respect of the offence that the court is empowered to make;
 - (c) make any other order that the court is empowered to make.
-

Section 20AC

- (5) Where a court passes a sentence, or makes an order, under subsection (1) in respect of a person, the court shall, as soon as practicable, cause the sentence or order to be reduced to writing and a copy of the sentence or order to be given to, or served on, the person.

20AC Failure to comply with sentence passed, or order made, under subsection 20AB(1)

- (1) In this section, *the applied provisions*, in relation to a sentence passed or an order made under subsection 20AB(1), means the provisions of the laws of a State or Territory that apply to and in relation to the sentence or order by virtue of subsection 20AB(3).
- (2) Where a sentence has been passed, or an order has been made, under subsection 20AB(1) in respect of a person and information is laid before a magistrate, whether before or after the expiration of the period for which the sentence or order is to operate or operated, alleging that the person has, without reasonable cause or excuse, failed to comply with the sentence or order or with any requirements made in relation to the sentence or order by or under the applied provisions, the magistrate may—
- (a) issue a summons directing the person to appear, on a date, at a time and at a place fixed in the summons, before the court by which the sentence was passed or the order was made; or
 - (b) if the information is laid on oath and the magistrate is of the opinion that proceedings against the person by summons might not be effective—issue a warrant for the apprehension of the person.
- (3) Where—
- (a) a person who is served with a summons issued under subsection (2) fails to attend before the court as required by the summons; or
 - (b) a person who has been admitted to bail under subsection (5) fails to attend before the court as required by the condition of his bail,

the court may, on proof of the service of the summons or of the admission of the person to bail, as the case may be, issue a warrant for the apprehension of the person.

- (4) A warrant issued under subsection (2) or (3) shall authorize the apprehension of the person, the bringing of the person before the court as soon as practicable after his apprehension and the detention of the person in custody until he is released by order of the court or in accordance with subsection (5).
- (5) Where a person is apprehended in pursuance of a warrant issued under subsection (2) or (3) and the court before which he is to be brought is not sitting at the time of his arrest, the person shall be brought before a magistrate, who may—
 - (a) admit the person to bail, on such recognizance (with or without sureties) as the magistrate thinks fit, on the condition that the person appears, on such date, at such time and at such place as the magistrate specifies, before that court; or
 - (b) direct that the person be kept in custody in accordance with the warrant.
- (6) Where, in accordance with this section, a person in respect of whom a sentence has been passed, or an order has been made, under subsection 20AB(1) appears or is brought before the court by which the sentence was passed or the order was made, the court (whether or not constituted by the judge or magistrate who passed the sentence or made the order), if it is satisfied that the person has, without reasonable cause or excuse, failed to comply with the sentence or order or with any requirements made in relation to the sentence or order by or under the applied provisions, may—
 - (a) without prejudice to the continuance of the sentence or order, impose a pecuniary penalty not exceeding \$1,000 on the person;
 - (b) revoke the sentence or order and, subject to subsection (7), deal with the person, for the offence in respect of which the sentence was passed or the order was made, in any manner in which he could have been dealt with for that offence if the sentence had not been passed or the order had not been made

Section 20AC

and he was before the court for sentence in respect of the offence; or

- (c) take no action.
- (7) Where a person in respect of whom a sentence has been passed, or an order has been made, under subsection 20AB(1) is dealt with under subsection (6) for the offence in respect of which the sentence was passed or the order was made, the court, in so dealing with the person, shall, in addition to any other matters that the court considers should be taken into account, take into account—
- (a) the fact that the sentence was passed or the order was made;
- (b) anything done under the sentence or order; and
- (c) any fine or other pecuniary penalty imposed, and any other order made, for or in respect of the offence.
- (8) Where a person in respect of whom a sentence has been passed, or an order has been made, under subsection 20AB(1) is dealt with under subsection (6) for the offence in respect of which the sentence was passed or the order was made, there shall be such rights of appeal in respect of the manner in which the person is dealt with for that offence as there would have been if—
- (a) the court had, immediately before so dealing with him, convicted him of the offence; and
- (b) the manner in which he is dealt with had been a sentence passed upon that conviction.
- (9) Nothing in this section shall be taken to prevent a sentence passed, or an order made, under subsection 20AB(1) being revoked or varied under the applied provisions otherwise than for a failure to comply with the sentence or order or with any requirements made in relation to the sentence or order by or under the applied provisions.
- (10) A pecuniary penalty imposed on a person by virtue of paragraph (6)(a) shall, for the purposes of the laws of the Commonwealth, and of the States and Territories, with respect to the enforcement and recovery of fines ordered to be paid by

offenders, be deemed to be a fine imposed on the person upon his conviction for an offence against the law of the Commonwealth.

20B Offenders found to be insane

- (1) Where a person has been charged with an indictable offence against a law of the Commonwealth and—
 - (a) the person is unfit to be tried by reason of unsoundness of mind; or
 - (b) the person is acquitted by reason of unsoundness of mind at the time of the commission of the offence,the court shall direct that the person be kept in strict custody until the pleasure of the Governor-General is known.
- (2) Where a court has, under subsection (1), directed that a person be kept in strict custody until the pleasure of the Governor-General is known, the Governor-General may, by writing under his hand, order that the person be detained in safe custody in such place and in accordance with such directions, if any, as the Governor-General specifies in the order.
- (3) The Governor-General may, from time to time, by writing under his hand, vary an order made under subsection (2), either as to the place specified in the order or the directions so specified, or as to both, in such manner as he thinks fit.
- (4) The Governor-General may, by writing under his hand, order that a person detained in safe custody in pursuance of an order made under subsection (2) (being a person who, by reason of unsoundness of mind, has been acquitted of the offence with which he was charged) be released from custody either unconditionally or subject to such conditions as are specified in the order.
- (5) Where the Governor-General orders that a person be released from custody subject to conditions, the Governor-General may, at any time, by writing under his hand—
 - (a) vary or revoke any or all of the conditions or impose additional conditions; or

Section 20C

- (b) revoke the order.
- (6) Where an order made in respect of a person under subsection (4) is revoked or the person fails to comply with a condition of such an order, the person may, without warrant, be arrested by any constable and may be detained in safe custody in accordance with the order made in respect of the person under subsection (2) as if the order under subsection (4) had not been made.
- (7) Upon the Governor-General making an order under subsection (4) that a person be released from custody unconditionally or upon the Governor-General revoking all the conditions subject to which a person has been released from custody in pursuance of an order made under that subsection, the order made under subsection (2) in respect of the person ceases to have effect.
- (8) Where an order is made under subsection (2) in respect of a person who, by reason of unsoundness of mind, is unfit to be tried, he shall be detained until the Governor-General is satisfied by the certificate in writing of not less than 2 duly qualified medical practitioners that the person has become of sound mind and is fit to be tried, and, upon the Governor-General being so satisfied, the Governor-General may, by writing under his hand, order the removal of the person to such custody as is specified in the order so that he may be tried for the offence with which he was charged.
- (9) For the purposes of the preceding provisions of this section, ***the Governor-General*** means the Governor-General of the Commonwealth, or the person for the time being administering the government of the Commonwealth, acting with the advice of the Attorney-General.

20C Offences by children and young persons

- (1) A child or young person who, in a State or Territory, is charged with or convicted of an offence against a law of the Commonwealth may be tried, punished or otherwise dealt with as if the offence were an offence against a law of the State or Territory.

- (2) Where a person under the age of 18 years is convicted of an offence against a law of the Commonwealth that is punishable by death, he shall not be sentenced to death but the court shall impose such other punishment as the court thinks fit.

21 Time for commencement of prosecutions

- (1) A prosecution in respect of an offence against any law of the Commonwealth may be commenced as follows:—
- (a) where the maximum term of imprisonment in respect of the offence in the case of a first conviction exceeds 6 months—at any time after the commission of the offence;
 - (b) where the maximum term of imprisonment in respect of the offence in the case of a first conviction does not exceed 6 months—at any time within one year after the commission of the offence; and
 - (c) where the punishment provided in respect of the offence is a pecuniary penalty and no term of imprisonment is mentioned—at any time within one year after the commission of the offence.
- (2) Notwithstanding any provision in any law of the Commonwealth passed before the commencement of this Act and providing any shorter time for the commencement of the prosecution, any prosecution for an offence against the law may be commenced at any time within one year after the commission of the offence.
- (3) Where by any law of the Commonwealth any longer time than the time provided by this section is provided for the commencement of a prosecution in respect of an offence against that law, a prosecution in respect of the offence may be commenced at any time within that longer time.

21A Form of indictments, information and summonses

- (1) If at the hearing of any indictment, information or summons any objection is taken for an alleged defect therein in substance or in form, or if objection is taken to any variance between the

Section 21AA

indictment, information or summons and the evidence adduced at the hearing in support thereof, the court may make such amendment in the indictment, information or summons as appears to it to be desirable or to be necessary to enable the real question in dispute to be determined.

- (2) If in any such case the court considers that the defendant has been misled by the form in which the indictment, information or summons has been made out, it may adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.
- (3) The power of the court under subsection (1) shall not be exercised in cases where the court considers that the required amendments cannot be made without injustice to the defendant.

21AA Taking other offences into account

- (1) Where a person is convicted of an offence or offences against the law of the Commonwealth, and the court before which the person is convicted is satisfied that—
 - (a) there has been filed in the court a document in, or to the effect of, the form prescribed for the purposes of this section;
 - (b) the document contains a list of other offences against the law of the Commonwealth, or of the Australian Capital Territory or an external Territory that is prescribed for the purposes of this section, for which the person has been charged, presented for trial or committed for sentence;
 - (c) the document has been signed—
 - (i) by the Director of Public Prosecutions;
 - (ii) for and on behalf of the Director of Public Prosecutions, by a person authorized by the Director of Public Prosecutions, by instrument in writing, to sign documents under this subsection; or
 - (iii) by a person appointed under section 69 of the *Judiciary Act 1903* to prosecute indictable offences against the laws of the Commonwealth,and by the person convicted;

- (d) a copy of the document has been given to the person; and
(e) in all the circumstances it is proper to do so,
the court may, with the consent of the prosecutor and before passing sentence on the person, ask him whether he admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account by the court in passing sentence on him for the offence or offences of which he has been convicted.
- (2) Subject to subsection (3), if the person admits his guilt in respect of all or any of the offences specified in the list and wishes to have them taken into account by the court in passing sentence on him for the offence or offences of which he has been convicted, the court may, if it thinks fit, in passing sentence on him for the offence or offences of which he has been convicted, take into account all or any of the offences in respect of which the person has admitted his guilt.
- (3) The court shall not take into account under this section any indictable offence that it would not have jurisdiction to try even if the defendant consented to the court hearing and determining proceedings for the offence or the prosecutor requested the court to hear and determine those proceedings.
- (3A) Subsection (3) does not prevent a court from taking into account an indictable offence where the court has jurisdiction to sentence a person charged with that offence
- (4) Where the court takes into account under this section all or any of the offences in respect of which the person has admitted his guilt, the sentence passed on him for any of the offences of which he has been convicted shall not exceed the maximum penalty that the court would have been empowered to impose on him for the offence if no offence had been so taken into account.
- (5) Where an offence is taken into account under this section, the court may make such orders with respect to reparation, restitution, compensation, costs and forfeiture as it would have been empowered to make if the person had been convicted before the

Section 21AA

court of the offence, but shall not otherwise impose any separate punishment for the offence.

- (6) Where the court makes an order under subsection (5) in respect of an offence taken into account under this section, there shall be such rights of appeal in respect of the order as there would have been if the order had been an order made upon the conviction of the person for that offence.
- (7) An order made under subsection (5) in respect of an offence taken into account under this section lapses, by force of this subsection, if the conviction or each conviction, as the case may be, in respect of which the offence was taken into account is quashed or set aside.
- (8) Where an offence is taken into account under this section, the court shall certify, upon the document filed in the court, the offence taken into account and the conviction or convictions in respect of which the offence was taken into account and thereafter no proceedings shall be taken or continued in respect of the offence unless the conviction or each conviction, as the case may be, in respect of which the offence has been taken into account has been quashed or set aside.
- (9) An admission of guilt made under and for the purposes of this section is not admissible in evidence in any proceedings taken or continued in respect of the offence in respect of which the admission was made or in respect of any other offence specified in the list contained in the document filed in the court.
- (10) An offence taken into account under this section shall not, by reason of its so being taken into account, be regarded for any purpose as an offence of which a person has been convicted.
- (11) In or in relation to any criminal proceeding, reference may lawfully be made to, or evidence may lawfully be given of, the fact that an offence was taken into account under this section in passing sentence for an offence for which a person was convicted if, in or in relation to that proceeding—

- (a) reference may lawfully be made to, or evidence may lawfully be given of, the fact that the person was convicted of the last-mentioned offence; and
 - (b) had the person been convicted of the offence so taken into account, reference could lawfully have been made to, or evidence could lawfully have been given of, the fact that the person had been convicted of that offence.
- (12) The fact that an offence was taken into account under this section may be proved in the same manner as the conviction or any of the convictions, as the case may be, in relation to which it was taken into account may be proved.

21B Reparation for offences

Where—

- (a) a person is convicted of an offence against a law of the Commonwealth; or
- (b) an order is made under section 19B in relation to an offence against a law of the Commonwealth committed by a person, the court may, in addition to the penalty, if any, imposed upon the person, order the offender—
 - (c) to make reparation to the Commonwealth or to a public authority under the Commonwealth, by way of money payment or otherwise, in respect of any loss suffered, or any expense incurred, by the Commonwealth or the authority, as the case may be, by reason of the offence; or
 - (d) to make reparation to any person, by way of money payment or otherwise, in respect of any loss suffered by the person as a direct result of the offence.

21C Burden of proof of lawful authority

Where under any law of the Commonwealth any act, if done without lawful authority, or without lawful authority or excuse, or without permission, is an offence against that law, the burden of proving that the act was done with lawful authority, or with lawful

Section 21D

authority or excuse, or with permission (as the case may be), shall be on the person accused.

21D Prerogative of mercy

Nothing in this Part shall be construed as affecting the powers vested in the Governor-General in the exercise of the Royal prerogative of mercy.

22 Privilege of Parliament not affected

Nothing in this Act shall derogate from any power or privilege of either House of the Parliament or of the members or committees of either House of Parliament as existing at the commencement of this Act.

23 Civil rights not affected

Nothing in this Act shall affect the right of any person aggrieved by any act or omission which is punishable as an offence against this Act to institute civil proceedings in any court in respect of such act or omission.

Part II—Offences against the Government

24 Treason

- (1) A person who—
- (a) kills the Sovereign, does the Sovereign any bodily harm tending to the death or destruction of the Sovereign or maims, wounds, imprisons or restrains the Sovereign;
 - (b) kills the eldest son and heir apparent, or the Queen Consort, of the Sovereign;
 - (c) levies war, or does any act preparatory to levying war, against the Commonwealth;
 - (d) assists by any means whatever, with intent to assist, an enemy—
 - (i) at war with the Commonwealth, whether or not the existence of a state of war has been declared; and
 - (ii) specified by proclamation made for the purpose of this paragraph to be an enemy at war with the Commonwealth;
 - (e) instigates a foreigner to make an armed invasion of the Commonwealth or any Territory not forming part of the Commonwealth; or
 - (f) forms an intention to do any act referred to in a preceding paragraph and manifests that intention by an overt act,
- shall be guilty of an indictable offence, called treason, and liable to the punishment of death.
- (2) A person who—
- (a) receives or assists another person who is, to his knowledge, guilty of treason in order to enable him to escape punishment; or
 - (b) knowing that a person intends to commit treason, does not give information thereof with all reasonable despatch to a

Section 24AA

constable or use other reasonable endeavours to prevent the commission of the offence,
shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

- (3) On the trial of a person charged with treason on the ground that he formed an intention to do an act referred to in paragraph 1(a), (b), (c), (d) or (e) and manifested that intention by an overt act, evidence of the overt act shall not be admitted unless the overt act was alleged in the indictment.
- (4) A sentence of death passed by a court in pursuance of this section shall be carried into execution in accordance with the law of the State or Territory in which the offender is convicted or, if the law of that State or Territory does not provide for the execution of sentences of death, in accordance with the directions of the Governor-General.

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.

- (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.

Section 24AB

24AB Sabotage

(1) In this section—

act of sabotage means the destruction, damage or impairment, for a purpose intended to be prejudicial to 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 possession any article that is capable of use, and which he 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 a purpose intended to be prejudicial to the safety or defence of the Commonwealth and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to 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 purpose of the defendant was a purpose intended to be prejudicial to 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 purpose of the defendant was a purpose intended to be prejudicial to 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 24, 24AA or 24AB shall not be instituted except by the 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 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

Section 24A

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

24A Definition of seditious intention

An intention to effect any of the following purposes, that is to say—

- (a) to bring the Sovereign into hatred or contempt;
 - (d) to excite disaffection against the Government or Constitution of the Commonwealth or against either House of the Parliament of the Commonwealth;
 - (f) to excite Her Majesty's subjects to attempt to procure the alteration, otherwise than by lawful means, of any matter in the Commonwealth established by law of the Commonwealth; or
 - (g) to promote feelings of ill-will and hostility between different classes of Her Majesty's subjects so as to endanger the peace, order or good government of the Commonwealth,
- is a seditious intention.

24B Definition of seditious enterprise

- (1) A seditious enterprise is an enterprise undertaken in order to carry out a seditious intention.
- (2) Seditious words are words expressive of a seditious intention.

24C Offences

Any person who—

- (a) engages in or agrees or undertakes to engage in, a seditious enterprise;
 - (b) conspires with any person to carry out a seditious enterprise;
 - (c) counsels, advises or attempts to procure the carrying out of a seditious enterprise,
- with the intention of causing violence or creating public disorder or a public disturbance, shall be guilty of an indictable offence.

Penalty: Imprisonment for 3 years.

24D Seditious words

- (1) Any person who, with the intention of causing violence or creating public disorder or a public disturbance, writes, prints, utters or publishes any seditious words shall be guilty of an indictable offence.

Penalty: Imprisonment for 3 years.

- (2) A person cannot be convicted of any of the offences defined in section 24C or this section upon the uncorroborated testimony of one witness.

24E Punishment of offences

- (1) An offence under section 24C or 24D shall be punishable either on indictment or summarily, but shall not be prosecuted summarily without the consent of the Attorney-General.
- (2) If any person who is prosecuted summarily in respect of an offence against section 24C or 24D, elects, immediately after pleading, to be tried upon indictment, the court or magistrate shall not proceed to summarily convict that person but may commit him for trial.
- (3) The penalty for an offence against section 24C or 24D shall, where the offence is prosecuted summarily, be imprisonment for a period not exceeding 12 months.

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

Section 24F

- country, has or have been, or is or are, mistaken in any of his 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 24(1)(d) to be an enemy at war with the Commonwealth;
 - (c) with intent to assist a proclaimed enemy, as defined by subsection 24AA(4), of a proclaimed country as so defined;
 - (d) with intent to assist persons specified in paragraphs 24AA(2)(a) and (b); 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 to mutiny

- (1) Any person who knowingly attempts—
- (a) to seduce any person serving in the Queen's Forces from his 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 knowingly aids an alien enemy who is a prisoner of war to escape, or in his 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 their training or

Section 28

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

Any person who wilfully and unlawfully 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.

29A False pretences

- (1) Any person who, with intent to defraud, by any false pretence obtains from the Commonwealth or from any public authority under the Commonwealth any chattel, money, valuable security or benefit, shall be guilty of an offence.

Section 29B

- (2) Any person who, with intent to defraud, by any false pretence, causes or procures any money to be paid, or any chattel, valuable security or benefit to be delivered or given, by the Commonwealth or by any public authority under the Commonwealth to any person, shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

29B False representation

Any person who imposes or endeavours to impose upon the Commonwealth or any public authority under the Commonwealth by any untrue representation, made in any manner whatsoever, with a view to obtain money or any other benefit or advantage, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

29C Statements in applications for grant of money, &c.

A person who, in or in connexion with or in support of, an application to the Commonwealth, to a Commonwealth officer or to a public authority under the Commonwealth for any grant, payment or allotment of money or allowance under a law of the Commonwealth makes, either orally or in writing, any untrue statement shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

29D Fraud

A person who defrauds the Commonwealth or a public authority under the Commonwealth is guilty of an indictable offence.

Penalty: \$100,000 or imprisonment for 10 years, or both.

30 Seizing goods in Commonwealth custody

Any person who, without lawful authority, takes any goods or property out of the possession, custody, or control of the

Section 30

Commonwealth or a public authority under the Commonwealth or out of the possession, custody, or control of a Commonwealth officer who has the possession, custody, or control thereof by virtue of his office, shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

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 as defined in section 24A.
- (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.

Section 30AA

- (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.

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.
- (3) The provisions of section 30R shall apply in relation to averments contained in the summons as if they were averments of the prosecutor in a prosecution for an offence under this Part.
- (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.
- (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 possession any information or documents relating to an unlawful association, he 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.

Section 30B

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 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 Deregistration of newspaper

- (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 Sale or distribution of books, &c.

Any person who knowingly prints, publishes, sells or exposes for sale or who 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.

Section 30FA

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, &c., of building knowingly permitting meeting of unlawful association

Any person who, being the owner, lessee, agent or superintendent of any building, room, premises or place, knowingly 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 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;
- (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 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 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

Section 30K

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 employees, or to aid another employer in compelling his 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—

- (a) obstructs or hinders the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth;
- (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 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 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.

30R Effect of averments of prosecutor

- (1) In any prosecution for an offence under this Part, or for an offence to which any provision of this Part is material, the averments of the prosecutor contained in the information or indictment shall be *prima facie* evidence of the matter or matters averred.
- (2) Subsection (1) shall apply to any matter so averred although—
 - (a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
 - (b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.
- (3) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and

Section 30R

probative value of such evidence shall be neither increased nor diminished by reason of this section.

- (4) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.
- (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 Definitions

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.

32 Judicial corruption

Any person who—

- (a) being the holder of a judicial office, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, or any other person, on account of anything already done or omitted to be done or to be afterwards done or omitted to be done by him in his judicial capacity; or
 - (b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for, any person holding a judicial office, any property or benefit of any kind on account of any such act or omission on the part of the person holding the judicial office,
- shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

Section 33

33 Official corruption in relation to offences

Any person who—

- (a) being a judge or magistrate not acting judicially, or being a Commonwealth officer employed in a capacity not judicial for the prosecution or detention or punishment of offenders, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him, with a view to corrupt or improper interference with the due administration of justice under the law of the Commonwealth or of a Territory, or the procurement or facilitation of the commission of any offence against the law of the Commonwealth or of a Territory, or the protection of an offender or intending offender against the law of the Commonwealth or of a Territory from detection or punishment; or
 - (b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure to, upon, or for, any such judge, magistrate, or Commonwealth officer, any property or benefit of any kind, on account of any such act or omission on the part of the judge, magistrate, or officer,
- shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

34 Judge or magistrate acting oppressively or when interested

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, without reasonable excuse, and in abuse of his office, requires excessive and unreasonable bail, or
- (b) being a judge or magistrate, wilfully and perversely exercises federal jurisdiction in any matter in which he has a personal interest,

shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

35 Giving false testimony

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

Penalty: Imprisonment for 5 years.

- (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—

- (a) fabricates evidence, or
(b) knowingly makes use of fabricated evidence,
shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

36A Intimidation of witnesses, &c.

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,

Section 37

a person for or on account of his 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) attempts by any means to induce 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 or attempts to receive or obtain, any property or benefit of any kind for himself, 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 practises any fraud or deceit, or knowingly 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, wilfully 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 wilfully prevents or wilfully endeavours to prevent 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

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.

42 Conspiracy to defeat justice

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.

Section 43

43 Attempting to pervert justice

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.

44 Compounding offences

Any person who asks receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, upon any agreement or understanding that he will compound or conceal any indictable offence against the law of the Commonwealth or of 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

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;
 - (ab) aids a person who is lawfully detained during the Governor-General's pleasure 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.

47 Escaping

A person who has been lawfully arrested, is in lawful custody, or is lawfully detained during the Governor-General's pleasure, in respect of any offence against a law of the Commonwealth or of a 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.

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

Section 47B

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 during the Governor-General's pleasure 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.

47B Person unlawfully at large

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 during the Governor-General's pleasure, in respect of any offence against a law of the Commonwealth or of a Territory; and
- (b) refuses or fails, without reasonable excuse, 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.

47C Permitting escape

(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 during the Governor-General's pleasure) in respect of any offence against a law of the Commonwealth or of a Territory; and
- (c) wilfully 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 wilfully 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 is guilty of an offence.

Penalty: Imprisonment for 5 years.

48A Sentence ceases to run while escaped prisoner at large

A person who commits an offence against section 47 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.

48B Arrest of prisoner unlawfully at large

- (1) A constable may, without warrant, apprehend a person whom the constable, with reasonable cause, suspects is a prisoner unlawfully at large.
- (2) The constable shall forthwith take the person before a Magistrate.
- (3) If the Magistrate is satisfied that the person is a prisoner unlawfully at large, the Magistrate may issue a warrant:
- (a) authorising any constable to convey the person to a prison specified in the warrant; and

Section 49

- (b) directing that the person, having been conveyed to that prison in accordance with the warrant, be detained in prison to undergo the term of imprisonment or other detention that the person is required by law to undergo.
- (4) In this section, *prisoner unlawfully at large* means a person who is at large (otherwise than by reason of having escaped from lawful custody) at a time when the person is required by law to be in custody for an offence against the law of the Commonwealth.

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, knowingly and with intent to hinder or defeat the attachment or process, receives, removes, retains, conceals, or disposes of the property, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

50 Obstructing officers of Courts

Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any federal court, court acting in the exercise of a federal jurisdiction or any court of a Territory, shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

Part V—Forgery

63 What amounts to forgery

- (1) A person shall be deemed to forge a seal, signature, document, register, or record, as the case may be—
 - (a) if he makes a counterfeit of the seal, or of the impression of the seal;
 - (b) if he makes a counterfeit of the signature;
 - (c) if he makes a document, register, or record, which is false, knowing it to be false; or
 - (d) if he, without authority, by any means whatever, alters a genuine document, register, or record, in any material particular

with intent that the counterfeit seal or impression of a seal or signature, or the false or altered document, register, or record, may be used, acted on, or accepted, as genuine, to the prejudice of the Commonwealth, or of any State or person, or with intent that the Commonwealth, or any State or person, may, in the belief that it is genuine, be induced to do or refrain from doing any act whether in Australia or elsewhere.

- (2) A person shall be deemed to make a counterfeit of a seal, or of an impression of a seal, or of a signature, if he, without authority—
 - (a) in the case of a seal, makes a seal in the form of the genuine seal, or in a form resembling or apparently intended to resemble or pass for the genuine seal;
 - (b) in the case of an impression of a seal, makes an impression of the genuine seal, or an impression, resembling or apparently intended to resemble or pass for the impression of the genuine seal; or
 - (c) in the case of a signature, makes a signature in the form of the genuine signature, or in a form resembling or apparently intended to resemble or pass for the genuine signature.

Section 64

- (3) Where a person does an act referred to in a paragraph of subsection (1) with intent that a computer, a machine or other device should respond to the counterfeit seal or impression of a seal or signature, or to the false or altered document, register or record, as if it were genuine:
- (a) to the prejudice of the Commonwealth or of any State or person; or
 - (b) with the result that the Commonwealth or any State or person would be induced to do or refrain from doing any act, whether in Australia or elsewhere;
- the person shall be taken to have forged the seal, signature, document, register or record, as the case may be.

64 What amounts to uttering

A person shall be deemed to utter a forged seal, signature, document; register, or record, if he tenders or puts it off, or attempts to tender or put it off, or uses or deals with it, or attempts to use or deal with it, or attempts to induce any person to use, deal with, act upon, or accept it.

65 Forgery of seals

- (1) Any person who forges, or utters knowing it to be forged—
- (a) the Great Seal of Australia or the public seal of a Territory;
 - (b) the seal of the High Court or any other federal court, or any seal used by the High Court or any other federal court;
 - (c) the official seal of a Minister of State;
 - (d) any official seal used by any Department of the Commonwealth, or any public authority under the Commonwealth; or
 - (e) an official seal of which, under a law of the Commonwealth or a Territory, judicial notice is to be taken,
- shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

- (2) Any person who, without lawful authority (proof whereof shall lie upon him), makes, or has in possession, any die or stamp capable of making an impression, in the form of any of the seals referred to in this section, or resembling, or apparently intended to resemble or pass for any of those seals, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

- (3) Every die or stamp made or had in possession in contravention of this section shall be forfeited to the Commonwealth.

66 Forgery of official signatures

Any person who forges, or utters knowing it to be forged, the signature of—

- (a) the Governor-General;
- (b) any Justice of the High Court, or any Justice or Judge of any other federal court;
- (c) a Minister of State;
- (d) the President of the Senate, or the Speaker of the House of Representatives, or the chairman of any committee of either House; or
- (e) a person of whose signature, under a law of the Commonwealth or a Territory, judicial notice is to be taken, shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

67 Forgery of Commonwealth documents etc.

Any person who forges, or utters knowing it to be forged—

- (a) any document issuable by, or deliverable to, the Senate or the House of Representatives, or any officer thereof;
- (b) any document issuable by, or deliverable to, any Department of the Commonwealth or any public authority under the Commonwealth, or any Commonwealth officer;

Section 68

- (c) any document issuable by, or deliverable to, the High Court, or any other federal court, or any Justice, judge or officer thereof;
 - (d) any register or record kept by the Senate or the House of Representatives, or any officer thereof;
 - (e) any register, book, document or other record kept by any Department of the Commonwealth or any public authority under the Commonwealth or any Commonwealth officer ; or
 - (f) any register or record kept by the High Court or any other federal court, or any officer thereof,
- shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

68 Forging official marks

Any person who, without lawful authority (proof whereof shall lie upon him) and with intent to deceive, makes any mark resembling, or apparently intended to resemble or pass for, any authorized official stamp or mark of any Department of the Commonwealth or of any public authority under the Commonwealth, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

69 Making special paper, &c., for

- (1) Any person who, without lawful authority or excuse (proof whereof shall lie upon him)—
 - (a) knowingly makes, uses, has in possession, or disposes of, paper resembling, or apparently intended to resemble or pass for, paper which is specially provided by proper authority for the purposes of any Commonwealth document; or
 - (b) knowingly makes, uses, or has in possession or disposes of, any instrument or thing for making any mark resembling, or apparently intended to resemble or pass for, any distinctive mark used in or on any paper specially provided by proper authority for the purpose of any Commonwealth document,

shall be guilty of an indictable offence.

Penalty: Imprisonment for 4 years.

- (2) Any paper, instrument, or thing made or used in contravention of this section shall be forfeited to the Commonwealth.

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 is authorized to publish or communicate it, any fact or document which comes to his knowledge, or into his possession, by virtue of being a Commonwealth officer, and which it is his 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), any fact or document which came to his knowledge, or into his possession, by virtue of having been a Commonwealth officer, and which, at the time when he ceased to be a Commonwealth officer, it was his duty not to disclose, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

71 Stealing property of the Commonwealth

- (1) Any person who steals or fraudulently misappropriates or fraudulently converts to his own use any property belonging to the Commonwealth, or to any public authority under the Commonwealth, shall be guilty of an offence.

Penalty: Imprisonment for 7 years.

- (2) Any property which comes into the possession of any Commonwealth officer by reason of the fact that he is a Commonwealth officer shall, for the purposes of this Act, be deemed to be the property of the Commonwealth, or, if the officer is employed in the service of a public authority under the Commonwealth, of that authority, notwithstanding that the officer was not authorized to receive it.

- (3) A person who receives property belonging to the Commonwealth or to a public authority under the Commonwealth knowing the property to have been stolen or obtained in circumstances that amount to an offence against a law of the Commonwealth shall be guilty of an offence.

Penalty: Imprisonment for 7 years.

- (4) For the purposes of this section, property in the possession, custody or control of the Commonwealth or of a public authority under the Commonwealth shall be deemed to belong to the Commonwealth or to that authority, as the case may be.

71A Proof of general deficiency sufficient

In any prosecution under section 71, it shall not be necessary to prove the stealing, fraudulent misappropriation or conversion of any specific sum of money or other property if there is proof of a general deficiency on the examination of the books of account or entries kept or made by the defendant or otherwise and the court or jury is satisfied that the accused stole, fraudulently misappropriated or converted to his own use the deficient money or other property or any part thereof.

72 Falsification of books or records by officers

Any person who, being a Commonwealth officer, fraudulently and in breach of his duty—

- (a) makes any false entry in any book, record or document;
 - (b) omits to make any entry in any book, record or document;
 - (c) by act or omission falsifies any book, record or document;
 - (d) destroys or damages any book, record or document;
 - (e) furnishes any false return of any property; or
 - (f) omits to furnish any return of any property,
- shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

Section 73

73 Corruption and bribery of Commonwealth officers

- (2) A Commonwealth officer who asks for or receives or obtains, or offers or agrees to ask for or receive or obtain, any property or benefit of any kind for himself or any other person, on an understanding that the exercise by him of his duty or authority as a Commonwealth officer will, in any manner, be influenced or affected, is guilty of an offence.
- (3) A person who, in order to influence or affect a Commonwealth officer in the exercise of his duty or authority as a Commonwealth officer, gives or confers, or promises or offers to give or confer, any property or benefit of any kind to or on the Commonwealth officer or any other person is guilty of an offence.

Penalty: Imprisonment for 2 years.

73A Corruption and bribery of members of the Parliament

- (1) A member of either House of the Parliament who asks for or receives or obtains, or offers or agrees to ask for or receive or obtain, any property or benefit of any kind for himself or any other person, on an understanding that the exercise by him of his duty or authority as such a member will, in any manner, be influenced or affected, is guilty of an offence.
- (2) A person who, in order to influence or affect a member of either House of the Parliament in the exercise of his duty or authority as such a member or to induce him to absent himself from the House of which he is a member, any committee of that House or from any committee of both Houses of the Parliament, gives or confers, or promises or offers to give or confer, any property or benefit of any kind to or on the member or any other person is guilty of an offence.

Penalty: Imprisonment for 2 years.

74 False returns or certificates by officers

Any person who, being a Commonwealth officer, and employed in a capacity in which he is required or enabled to furnish returns or statements touching—

- (a) any remuneration payable or claimed to be payable to himself or to any other person, or
- (b) any other matter required by law to be certified for the purpose of any payment of money or delivery of goods to be made to any person,

makes a return or statement touching any such matter which is, to his knowledge, false in any material particular, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

75 Personating public officers

Any person who—

- (a) personates any Commonwealth officer on an occasion when the latter is required to do any act or attend in any place by virtue of being a Commonwealth officer; or
- (b) falsely represents himself to be a Commonwealth officer, and assumes to do any act or attend in any place for the purpose of doing any act by virtue of pretending to be a Commonwealth officer,

shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

76 Resisting or obstructing public officers

Any person who wilfully obstructs or resists any Commonwealth officer while engaged in the discharge or attempted discharge of the duties of his office under any law of the Commonwealth, or wilfully obstructs or resists any person while engaged in the discharge or attempted discharge of any duty imposed on him by any law of the Commonwealth, or by violence or threats or

Section 76

intimidation of any kind interferes with, hinders or obstructs any person performing any service or function for or on behalf of the Commonwealth in the performance of that service or function, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

Part VIA—Offences relating to computers

76A Interpretation

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

Commonwealth includes a public authority under the Commonwealth;

Commonwealth computer means a computer, a computer system or a part of a computer system, owned, leased or operated by the Commonwealth;

data includes information, a computer program or part of a computer program.

- (2) In this Part:

- (a) a reference to data stored in a computer includes a reference to data entered or copied into the computer; and
- (b) a reference to data stored on behalf of the Commonwealth in a computer includes a reference to:
 - (i) data stored in the computer at the direction or request of the Commonwealth; and
 - (ii) data supplied by the Commonwealth that is stored in the computer under, or in the course of performing, a contract with the Commonwealth.

76B Unlawful access to data in Commonwealth and other computers

- (1) A person who intentionally and without authority obtains access to:
- (a) data stored in a Commonwealth computer; or
 - (b) data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer;
- is guilty of an offence.

Section 76B

Penalty: Imprisonment for 6 months.

- (2) A person who:
- (a) with intent to defraud any person and without authority obtains access to data stored in a Commonwealth computer, or to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer; or
 - (b) intentionally and without authority obtains access to data stored in a Commonwealth computer, or to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer, being data that the person knows or ought reasonably to know relates to:
 - (i) the security, defence or international relations of Australia;
 - (ii) the existence or identity of a confidential source of information relating to the enforcement of a criminal law of the Commonwealth or of a State or Territory;
 - (iii) the enforcement of a law of the Commonwealth or of a State or Territory;
 - (iv) the protection of public safety;
 - (v) the personal affairs of any person;
 - (vi) trade secrets;
 - (vii) records of a financial institution; or
 - (viii) commercial information the disclosure of which could cause advantage or disadvantage to any person;
- is guilty of an offence.

Penalty: Imprisonment for 2 years.

- (3) A person who:
- (a) has intentionally and without authority obtained access to data stored in a Commonwealth computer, or to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer;
 - (b) after examining part of that data, knows or ought reasonably to know that the part of the data which the person examined

Section 76C

relates wholly or partly to any of the matters referred to in paragraph (2)(b); and

(c) continues to examine that data;
is guilty of an offence.

Penalty for a contravention of this subsection: Imprisonment for 2 years.

76C Damaging data in Commonwealth and other computers

A person who intentionally and without authority or lawful excuse:

- (a) destroys, erases or alters data stored in, or inserts data into, a Commonwealth computer;
- (b) interferes with, or interrupts or obstructs the lawful use of, a Commonwealth computer;
- (c) destroys, erases, alters or adds to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer; or
- (d) impedes or prevents access to, or impairs the usefulness or effectiveness of, data stored in a Commonwealth computer or data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer;

is guilty of an offence.

Penalty: Imprisonment for 10 years.

76D Unlawful access to data in Commonwealth and other computers by means of Commonwealth facility

- (1) A person who, by means of a facility operated or provided by the Commonwealth, intentionally and without authority obtains access to data stored in a computer, is guilty of an offence.

Penalty: Imprisonment for 6 months.

- (2) A person who:

Section 76D

- (a) by means of a facility operated or provided by the Commonwealth, with intent to defraud any person and without authority obtains access to data stored in a computer; or
 - (b) by means of such a facility, intentionally and without authority obtains access to data stored in a computer, being data that the person knows or ought reasonably to know relates to:
 - (i) the security, defence or international relations of Australia;
 - (ii) the existence or identity of a confidential source of information relating to the enforcement of a criminal law of the Commonwealth or of a State or Territory;
 - (iii) the enforcement of a law of the Commonwealth or of a State or Territory;
 - (iv) the protection of public safety;
 - (v) the personal affairs of any person;
 - (vi) trade secrets;
 - (vii) records of a financial institution; or
 - (viii) commercial information the disclosure of which could cause advantage or disadvantage to any person;
- is guilty of an offence.

Penalty: Imprisonment for 2 years.

- (3) A person who:
 - (a) by means of a facility operated or provided by the Commonwealth, has intentionally and without authority obtained access to data stored in a computer;
 - (b) after examining part of that data, knows or ought reasonably to know that the part of the data which the person examined relates wholly or partly to any of the matters referred to in paragraph (2)(b); and
 - (c) continues to examine that data;
- is guilty of an offence.

Section 76E

Penalty for a contravention of this subsection: Imprisonment for 2 years.

76E Damaging data in Commonwealth and other computers by means of Commonwealth facility

A person who, by means of a facility operated or provided by the Commonwealth, intentionally and without authority or lawful excuse:

- (a) destroys, erases or alters data stored in, or inserts data into, a computer;
- (b) interferes with, or interrupts or obstructs the lawful use of, a computer; or
- (c) impedes or prevents access to, or impairs the usefulness or effectiveness of, data stored in a computer;

is guilty of an offence.

Penalty: Imprisonment for 10 years.

76F Saving of State and Territory laws

Sections 76D and 76E are not intended to exclude or limit the concurrent operation of any law of a State or Territory.

Part VII—Espionage and Official Secrets

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 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 this 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.

78 Espionage and similar activities

- (1) If a person for a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions—
 - (a) makes a sketch, plan, photograph, model, cipher, note, document or article that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power;
 - (b) obtains, collects, records, uses, has in his possession or communicates to another person a sketch, plan, photograph,

Section 78

model, cipher, note, document, article or information that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power; or

(c) approaches, is in the neighbourhood of, is in, enters, inspects or passes over a prohibited place,
he shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

(2) On a prosecution under this section—

(a) it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions; and

(b) if any sketch, plan, photograph, model, cipher, note, document, article or information relating to or used in a prohibited place, or anything in such a place, was made, obtained, collected, recorded, used, possessed or communicated by any person other than a person acting under lawful authority, it shall, unless the contrary is proved, be deemed to have been made, obtained, collected, recorded, used, possessed or communicated for a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions.

(3) On a prosecution under this section, evidence is not admissible by virtue of paragraph 2(a) 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 purpose of the defendant was a purpose intended to be prejudicial to the safety 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 (4), prejudice the fair trial of the defendant.
- (4) If evidence referred to in subsection (3) 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 purpose of the defendant was a purpose intended to be prejudicial to the safety 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.

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 possession or control and—
- (a) it has been made or obtained in contravention of this Part;
 - (b) it has been entrusted to the person by a Commonwealth officer or a person holding office under the Queen or he has made or obtained it owing to his 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 it was made or obtained by him or for any other reason, it is his duty to treat it as secret; or

Section 79

- (c) it relates to a prohibited place or anything in a prohibited place and—
- (i) he knows; or
 - (ii) by reason of its nature or the circumstances under which it came into his possession or control or for any other reason, he ought to know,
- that it should not be communicated to a person not authorized to receive it.
- (2) If a person for a purpose intended to be prejudicial to the safety 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 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 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 possession or control when he has no right to retain it or when it is contrary to his 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 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—
- (a) a person to whom he 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 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 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 possession or control when he has no right to retain it or when it is contrary to his 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 as to endanger its safety,

he 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 receives it, that it is communicated to him in contravention of section 78 or subsection (2) of this section, he shall be guilty of an indictable offence unless he proves that the communication was contrary to his 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 receives it, that it

Section 79

is communicated to him in contravention of subsection (3), he shall be guilty of an offence unless he proves that the communication was contrary to his 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 a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety 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 purpose of the defendant was a purpose intended to be prejudicial to the safety 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 purpose of the defendant was a purpose intended to be prejudicial to the safety 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 of 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

Section 81

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.

81 Harbours spies

- (1) Any person who—
- (a) knowingly harbors any person whom he knows or has reasonable ground for supposing to be a spy; or
 - (b) knowingly permits any persons, whom he knows or has reasonable ground for supposing to be spies, to meet or assemble in any premises in his occupation or under his control; or
 - (c) having harbored any person whom he knows or has reasonable ground for supposing to be a spy, or having permitted any persons whom he knows or has reasonable ground for supposing to be spies to meet or assemble in any premises in his occupation or under his control, refuses to disclose to any authorized officer any information which it is in his power to give in relation to that person or those persons,

shall be guilty of an offence.

Penalty: Imprisonment for 7 years.

- (2) For the purposes of this section any person who has committed any offence or is about to commit any offence against this Part (other than this section) shall be deemed to be a spy.
- (3) In this section, *authorized officer* means—
- (a) a member or special member of the Australian Federal Police;
 - (b) an officer of the Defence Force who is in command or in charge of a prohibited place;

- (c) a member of the police force of a State or Territory who is the principal officer of police in any town or locality; or
- (d) any other person declared by the Attorney-General, in writing, to be an authorized officer for the purposes of this section.

82 Search warrants

- (1) If a Justice of the Peace is satisfied, by information on oath, that there is reasonable ground for suspecting that an offence against this Part has been, is being or is about to be committed, he may grant a search warrant.
- (2) A search warrant granted under this section authorizes any constable or Commonwealth officer who is named in, or is lawfully in possession of, the warrant, with such assistance as he thinks necessary, to—
 - (a) enter, if necessary by force, at any time, any premises or place named or described in the warrant;
 - (b) search the premises or place and every person found therein and every person whom he reasonably believes to be about to enter or to have recently left the premises or place;
 - (c) break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises or place;
 - (d) seize anything that he finds on the premises or place or on any such person, and which he has reasonable grounds to believe is evidence of or otherwise relates to any offence or suspected offence which has been, is being or is about to be committed against this Part;
 - (e) make extracts from or copies of any book, document or paper liable to seizure under the warrant; and
 - (f) take such action as he considers expedient to prevent the commission of an offence against this Part.
- (3) Where a search warrant is granted under this section—

Section 83

- (a) the person who applied for the grant of the warrant shall forward to the Attorney-General a report of all the circumstances relating to the granting of the warrant; and
 - (b) the constable or Commonwealth officer who executes the warrant shall forward to the Attorney-General a report of all the circumstances relating to the execution of the warrant.
- (4) A female shall not be searched under this section except by a female.
- (5) In this section, *premises* includes vehicle, vessel or aircraft.

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) knowingly 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 recognised 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.
- (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.

83A Illegal use of uniforms, official permits, impersonation, &c.

- (1) A person who, for the purpose of contravening, or of assisting another person to contravene, a provision of this Part or of gaining admission, or of assisting another person to gain admission, to a prohibited place—
 - (a) uses or wears, without lawful authority, a naval, military, air force, police or other official uniform, or a uniform so nearly resembling such a uniform as to be likely to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear such a uniform;
 - (b) makes use of a disguise or false name or knowingly conceals his identity or nationality;
 - (c) forges, alters, tampers with, disposes of or destroys an official permit or knowingly uses or has in his possession a forged, altered or irregular official permit or official paper or anything so closely resembling an official permit or official paper as to be likely to deceive;

Section 83A

- (d) personates, or falsely represents himself to be, 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;
- (e) without lawful authority or excuse, manufactures, uses or disposes of, or has in his possession or under his control—
 - (i) an official die, key, badge, device, seal or stamp;
 - (ii) an impression of such a die, key, badge, device, seal or stamp; or
 - (iii) an official paper; or
- (f) counterfeits an official die, key, badge, device, seal or stamp, or uses, disposes of or has in his possession or under his control—
 - (i) a counterfeited official die, key, badge, device, seal or stamp;
 - (ii) anything so closely resembling an official die, key, badge, device, seal or stamp as to be likely to deceive; or
 - (iii) any paper so closely resembling an official paper as to be likely to deceive,

shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

- (2) A person who, without lawful authority or excuse—
 - (a) allows another person to have possession of an official permit issued for the use of the first-mentioned person alone;
 - (b) being a person for whose use an official permit has been issued, fails to comply with a direction or condition appearing on, or given by the authority which issued, the permit;

- (c) has in his possession or use an official permit issued for the use of some person other than himself;
- (d) on obtaining possession of an official permit by finding or otherwise, neglects or fails to restore it to—
 - (i) the person or authority by whom or for whose use it was issued;
 - (ii) a Commonwealth officer; or
 - (iii) a constable; or
- (e) manufactures, alters, disposes of or has in his possession or use an official die, key, badge, device, seal, or paper or anything so closely resembling such an article as to be likely to deceive,

shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

- (3) For the purposes of this section—
 - (a) the expression *official permit* means a naval, military, air force, police or official passport, pass, permit, badge, certificate, licence or document which—
 - (i) purports to identify the holder or authorizes him to do an act or thing; and
 - (ii) is used or intended for use in the service of the Queen or of the Commonwealth; and
 - (b) a die, key, badge, device, seal, stamp or paper shall be deemed to be an official die, key, badge, device, seal, stamp or paper, as the case may be, if it is used or intended for use in the service of the Queen or of the Commonwealth.

83B Arrest without warrant of offenders against this Part

A person may, without warrant, arrest another person—

- (a) if that other person has committed, is committing, has attempted to commit or is attempting to commit an offence against this Part;
- (b) if there is immediate danger that that other person will commit or attempt to commit an offence against this Part; or

Section 84

- (c) if that first-mentioned person is a constable and he has reasonable grounds for suspecting that that other person has committed, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Part,

and the arrested person may be detained in proper custody to be dealt with according to law.

84 Arrest of persons in or about prohibited places

- (1) Where a Commonwealth officer has reasonable grounds for suspecting that a person who is in, or in the neighbourhood of, a prohibited place has committed, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Part, the Commonwealth officer may, without warrant, arrest that person.
- (2) A person who is arrested in pursuance of subsection (1) shall forthwith be brought before the officer or other person in charge of the prohibited place.
- (3) The officer or other person in charge of the prohibited place may order the person brought before him to be detained pending further investigation, and the person shall thereupon be detained.
- (4) If a person is arrested under this section, a report of the facts and circumstances shall forthwith be made by the officer or other person in charge of the prohibited place to the Attorney-General and—
- (a) if no charge is laid against the suspected person within 24 hours after his arrest—he shall be released from detention; or
- (b) if a charge is laid against the suspected person—he shall be dealt with according to law.
- (5) No action lies against the Commonwealth or a Commonwealth officer or any other person in respect of any arrest or detention in pursuance of this section, but if the Governor-General is satisfied that an arrest or detention was made without reasonable cause he

may award reasonable compensation in respect of the arrest or detention.

84A Search of suspects

- (1) If a Commonwealth officer or a constable, while acting in the course of his duty or employment, has reasonable ground for suspecting that a person who—
 - (a) is about to enter or leave the Commonwealth;
 - (b) has been in or near, or has passed over, a prohibited place; or
 - (c) is behaving or has behaved in a suspicious manner,is in possession of evidence of an offence against this Part, the officer or constable may cause the person, his belongings and any bag or other article in his possession to be searched, and may, without warrant, detain the person for that purpose.
- (2) A female shall not be searched under this section except by a female.

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 direction but a person charged with an offence against this Part may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General or a person acting under his 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.

85A Offences by companies, &c.

Where an offence against this Part is committed by a company or corporation, or by a member or servant of a partnership acting in

Section 85B

the course of the business of the partnership, every director and officer of that company or corporation, or every member of that partnership, as the case may be, shall be guilty of that offence, unless he proves that the act or omission constituting the offence occurred without his knowledge or consent.

85B Hearing in camera, &c.

- (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 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.

85C Imprints to be evidence

- (1) The imprint appearing upon a book, periodical, pamphlet, hand-bill, poster or newspaper is, in a prosecution for an offence against this Part, evidence that the book, periodical, pamphlet, hand-bill, poster or newspaper was printed or published by the person specified in the imprint.
- (2) For the purposes of this section, *imprint* means a statement of the name and address of the printer or the publisher of the book, periodical, pamphlet, hand-bill, poster or newspaper, with or without a description of the place where it is printed.

85D Forfeiture of articles, &c.

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;

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

Section 85F

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, without lawful authority or excuse, 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, without lawful authority or excuse, 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, without lawful authority or excuse, 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

Section 85H

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.

- (6) A person shall be taken to utter a forged postage stamp if the person:
- (a) tenders it or puts it off;
 - (b) attempts to tender it or put it off;
 - (c) uses or deals with it;
 - (d) attempts to use or deal with it; or
 - (e) attempts to induce any person to use, deal with, act on or accept it.

85H Special paper for postage stamps

A person shall not, without lawful authority or excuse:

- (a) knowingly or recklessly 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) knowingly or recklessly 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) knowingly or recklessly 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

Section 85J

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.

85J Fraudulently removing postage stamps

- (1) A person shall not fraudulently:
- (a) remove from an article any postage stamp affixed to, or printed on, the article;
 - (b) remove from a postage stamp that has previously been used any postmark made on the stamp; or
 - (c) use for postal purposes a postage stamp that has previously been used for postal services or has been obliterated or defaced.

Penalty: Imprisonment for 1 year.

- (2) In proceedings for an offence against paragraph (1)(c), proof that the defendant caused an article to or on which a postage stamp that had previously been used for postal services, or had been obliterated or defaced, was affixed or printed to be carried by post is *prima facie* evidence that the defendant used the stamp affixed to, or printed on, the article for postal purposes.

85K Stealing articles in the course of post etc.

- (1) A person shall not:
- (a) fraudulently take a mail-bag, or an article in the course of post, from the possession of an employee of Australia Post;
 - (b) fraudulently take a mail-bag, or an article in the course of post, from any place appointed by Australia Post for the receipt or delivery of mail-bags or such an article; or
 - (c) steal, or fraudulently conceal, misappropriate or destroy, a mail-bag or an article in the course of post (including an article that appears to have been lost or wrongly delivered by

Section 85L

Australia Post or lost in the course of delivery to Australia Post).

- (2) A person shall not receive a mail-bag or an article in the course of post, or any part of a mail-bag or such an article, knowing that it had been stolen or fraudulently taken, concealed or misappropriated.

Penalty: Imprisonment for 5 years.

85L Tampering with mail-bags etc.

- (1) A person shall not fraudulently open or tamper with:
- (a) a mail-bag; or
 - (b) an article in the course of post.

Penalty: Imprisonment for 5 years.

- (2) A person shall not open:
- (a) a mail-bag unless the person is authorised to do so by Australia Post; or
 - (b) an article in the course of post unless the person is authorised to do so by Australia Post or the person to whom the article is directed.

Penalty: Imprisonment for 2 years.

85M Improperly obtaining articles in the course of post

A person shall not, by a false pretence or false statement, obtain delivery or receipt of an article in the course of post that is not directed to the person.

Penalty: Imprisonment for 5 years.

85N Wrongful delivery of postal article etc.

A person shall not knowingly or recklessly cause an article in the course of post to be delivered to, or received by, a person other

Section 85P

than the person to whom it is directed or that person's authorised agent.

Penalty: Imprisonment for 1 year.

85P Stealing postal messages etc.

- (1) A person shall not:
 - (a) fraudulently or with intent to prevent the due sending, carriage, delivery or receipt of a postal message, take a postal message from the possession of an employee of Australia Post;
 - (b) fraudulently take a postal message from any place or vehicle in use by Australia Post; or
 - (c) steal, or fraudulently conceal, misappropriate or destroy, a postal message.
- (2) A person shall not receive a postal message knowing it to have been stolen, or fraudulently taken, concealed or misappropriated.

Penalty: Imprisonment for 5 years.

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;
 - (b) attempts to tender it or put it off;
 - (c) uses or deals with it;
 - (d) attempts to use or deal with it; or

Section 85R

- (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 knowingly or recklessly 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.

85S Improper use of postal services

A person shall not knowingly or recklessly:

- (a) use a postal or telecommunications service supplied by Australia Post to menace or harass another person; or
- (b) use a postal or telecommunications service supplied by Australia Post in such a way as would be regarded by reasonable persons as being, in all the circumstances, offensive.

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 signed or to be sent by the person, a postal message that was not so signed or to be sent;
- (b) knowingly or recklessly 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) knowingly or recklessly 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.

Section 85U

Penalty: Imprisonment for 1 year.

85U Obstructing carriage of articles by post

A person shall not knowingly or recklessly 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, knowingly or recklessly 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.

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

Penalty: \$3,000.

85W Causing narcotic substances to be carried by post

- (1) A person shall not, without lawful authority or excuse, knowingly or recklessly cause to be carried by post an article that consists of, encloses or contains a prescribed narcotic substance within the meaning of the *Customs Act 1901*.

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).

Section 85X

85X Causing explosives to be carried by post etc.

- (1) A person shall not knowingly or recklessly cause to be carried by post an article that consists of, encloses or contains:
- (a) an explosive; or
 - (b) any prescribed dangerous or deleterious substance.

Penalty: Imprisonment for 10 years.

- (2) A person shall not, except with the approval of Australia Post and on compliance with such conditions (if any) as are determined by Australia Post, knowingly or recklessly cause to be carried by post an article that consists of, encloses or contains a dangerous or deleterious substance (other than an explosive or a substance prescribed under paragraph (1)(b)).

Penalty: Imprisonment for 5 years.

85Y Hoax explosives etc.

A person shall not cause an article to be carried by post with the intention of inducing a false belief:

- (a) that the article consists of, encloses or contains an explosive or a dangerous or deleterious substance; or
- (b) that an explosive, or a dangerous or deleterious substance, is or will be left in any place.

Penalty: Imprisonment for 5 years.

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.

Section 85ZA

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 VIIB—Offences relating to telecommunications services

85ZB Interpretation—definitions

In this Part, unless the contrary intention appears:

AUSSAT means AUSSAT Pty Ltd;

carrier means Telecom, OTC or AUSSAT;

communication in the course of telecommunications carriage means a communication that is being carried by a carrier, and includes a communication that has been collected or received by a carrier for carriage by the carrier, but has not been delivered by the carrier;

OTC means OTC Limited;

Telecom means the Australian Telecommunications Corporation.

85ZC Interpretation—expressions used in Telecommunications Act

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

85ZD Wrongful delivery of communications

A person shall not knowingly or recklessly cause a communication in the course of telecommunications carriage to be received by a person or telecommunications service other than the person or service to whom it is directed.

Penalty: Imprisonment for 1 year.

85ZE Improper use of telecommunications services

A person shall not knowingly or recklessly:

- (a) use a telecommunications service supplied by a carrier to menace or harass another person; or
- (b) use a telecommunications service supplied by a carrier in such a way as would be regarded by reasonable persons as being, in all the circumstances, offensive.

Penalty: Imprisonment for 1 year.

85ZF Fraudulent representations and devices

A person shall not, by means of an apparatus or device:

- (a) defraud a carrier of any rental, fee or charge properly payable for or in relation to a telecommunications service supplied by the carrier; or
- (b) knowingly or recklessly cause a carrier to supply a telecommunications service to another person without payment by that other person of the proper rental, fee or charge.

Penalty: Imprisonment for 5 years.

85ZG Interference with telecommunications services

- (1) A person shall not knowingly or recklessly manipulate, or tamper or interfere with, any facility operated by a carrier in such a way as to hinder the normal operation of a telecommunications service supplied by the carrier.
- (2) A person shall not knowingly or recklessly use or operate any apparatus or device (whether or not it is comprised in, connected to or used in connection with a telecommunications network) in such a way as to hinder the normal operation of a telecommunications service supplied by a carrier.

Penalty: Imprisonment for 2 years.

Section 85ZH

85ZH Sending signals to satellite

A person shall not, without lawful authority or excuse, knowingly or recklessly transmit a signal to a satellite operated by a carrier.

Penalty: \$12,000.

85ZJ Interference with carrier facilities

A person shall not knowingly or recklessly tamper or interfere with a facility belonging to a carrier.

Penalty: Imprisonment for 1 year.

85ZK Equipment used for unlawful purposes etc.

- (1) A person shall not:
- (a) connect equipment to a telecommunications network with the intention of using it in, or in relation to, the commission of an offence against a law of the Commonwealth or of a State or Territory; or
 - (b) use equipment connected to a telecommunications network in, or in relation to, the commission of such an offence.

Penalty: Imprisonment for 5 years.

- (2) Subsection (1) does not apply in relation to equipment in relation to which a permit under Division 4 of Part 5 of the *Telecommunications Act 1989* is in force.

Part VIII—Miscellaneous**86 Conspiracy**

- (1) A person who conspires with another person—
- (a) to commit an offence against a law of the Commonwealth;
 - (b) to prevent or defeat the execution or enforcement of a law of the Commonwealth;
 - (c) to effect a purpose that is unlawful under a law of the Commonwealth; or
 - (d) to effect a lawful purpose by means that are unlawful under a law of the Commonwealth.

shall be guilty of an indictable offence.

Penalty: Imprisonment for 3 years.

- (2) Notwithstanding the penalty set out at the foot of subsection (1)—
- (a) where the offender conspired with another person to commit an offence against a law of the Commonwealth that is punishable by death—the Court before which the offender is convicted may impose a penalty of imprisonment for life or such lesser penalty as it thinks fit; and
 - (b) where the offender conspired with another person to commit an offence against a law of the Commonwealth that is punishable by imprisonment for a greater period than 3 years—the offender is punishable as if he had committed that offence.

86A Conspiracy to defraud

A person who conspires with another person to defraud the Commonwealth or a public authority under the Commonwealth is guilty of an indictable offence.

Penalty: \$200,000 or imprisonment for 20 years, or both.

Section 87

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 knowledge, false in any material particular, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

88 Buying or selling offices

Any person who—

- (a) corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted to be done or to be afterwards done or omitted to be done, by him or any other person, with regard to the appointment or contemplated appointment of any person to any office or employment in the Australian Public Service or the public service of a Territory, or with regard to any application by any person for employment in the Australian Public Service or the public service of a Territory; or
- (b) corruptly gives, confers or procures, or promises or offers to give or confer, or to procure or attempt to procure, to upon or for any person any property or benefit of any kind on account of any such act or omission;

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), trespasses or goes upon any prohibited Commonwealth land shall be guilty of an offence.

Penalty: \$1,000.

- (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 name and address to the constable or officer and, if the person fails to comply with the request, he shall be guilty of an offence.

Penalty: \$1,000.

- (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 name or address, or apprehend a person, unless he first produces to the person the instrument by virtue of which he 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 Protective Service Act 1987*

89A Discharging firearms on or over Commonwealth land

- (1) A person who, without lawful authority or excuse (proof whereof shall lie upon him), discharges a firearm upon or over a prohibited

Section 90

area shall be guilty of an offence and the firearm 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 first produces to the person the instrument by virtue of which he 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), suffers or permits any cattle or other live stock in his 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: \$100.

90A Destroying, &c., posters, &c., 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, &c., 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,
- knowingly makes a false statement 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.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Act 1914	12, 1914	29 Oct 1914	29 Oct 1914	
Crimes Act 1915	6, 1915	7 May 1915	29 Oct 1914 (s 3)	—
War Precautions Act Repeal Act 1920	54, 1920	2 Dec 1920	s 11, 12: 2 Dec 1920	—
Crimes Act 1926	9, 1926	16 Mar 1926	29 Mar 1926 (s 2 and gaz 1926, p 437)	—
Crimes Act 1928	13, 1928	22 June 1928	22 June 1928	—
Crimes Act 1932	30, 1932	30 May 1932	30 May 1932	—
Judiciary Act 1937	5, 1937	3 July 1937	s 5 and The Sch: 3 July 1937	s 5
Crimes Act 1941	6, 1941	4 Apr 1941	3 Sept 1939 (s 2)	—
Defence (Transitional Provisions) Act 1946	77, 1946	14 Dec 1946	Third Sch: 1 Jan 1947 (s 2)	—
Statute Law Revision Act 1950	80, 1950	16 Dec 1950	s 16 and First Sch: 31 Dec 1950 (s 2)	s 16
Crimes Act 1955	10, 1955	31 May 1955	s 3-5: 31 May 1955 (s 2)	—
Crimes Act 1959	11, 1959	23 Apr 1959	s 3: 23 Apr 1959 (s 2) s 4: 14 Jan 1960 (s 2 and gaz 1960, p 47)	—
Crimes Act 1960	84, 1960	13 Dec 1960	13 Dec 1960 (s 2)	—
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	First Sch: 1 Dec 1966 (s 2(1))	
Crimes Act 1973	33, 1973	27 May 1973	27 May 1973 (s 2)	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	Sch 1: 31 Dec 1973 (s 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Postal and Telecommunications Commissions (Transitional Provisions) Act 1975	56, 1975	12 June 1975	Sch 2: 1 July 1975 (s 2(1))	—
Jurisdiction of Courts (Miscellaneous Amendments) Act 1979	19, 1979	28 Mar 1979	s 124: 28 Mar 1979 (s 2(1)) Sch: 15 May 1979 (s 2(3) and gaz 1979, No S86)	s 124
Australian Federal Police (Consequential Amendments) Act 1979	155, 1979	28 Nov 1979	Sch: 19 Oct 1979 (s 2(1))	—
Australian Federal Police (Consequential Amendments) Act 1980	70, 1980	28 May 1980	Sch: 28 May 1980 (s 2)	—
Crimes (Currency) Act 1981	122, 1981	17 Sept 1981	s 31-33: 16 Dec 1985 (s 2(2))	—
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	Sch 1: 16 Dec 1985 (s 2(1), (7))	s 16
Crimes Amendment Act 1982	67, 1982	16 June 1982	s 1, 2, 14 and Sch 2: 16 June 1982 (s 2(1)) s 6, 8 and 9: 16 Dec 1985 (s 2(2)) Remainder: 1 Nov 1982 (s 2(2) and gaz 1982 No G43)	s 4(2), 5(2), (6(2), 7(2), 8(2), (3), 10(2) and 13(2)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	Sch 1: 16 Dec 1985 (s 2(1))	s 16
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 60-65: 16 Dec 1985 (s 2(6))	—
Defence Force (Miscellaneous Provisions) Act 1982	153, 1982	31 Dec 1982	s 38: 3 July 1985 (s 2)	—
Statute Law (Miscellaneous Provisions) Act (No. 2) 1983	91, 1983	22 Nov 1983	Sch: 22 Nov 1983 (s 2(6))	s 6(1)
Director of Public Prosecutions (Consequential Amendments) Act 1983	114, 1983	14 Dec 1983	s 8: 16 Dec 1985 (s 2(2), (3)) s 9: 5 Mar 1984 (s 2(1))	—
Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1983	136, 1983	22 Dec 1983	s 5 and Sch: 27 Aug 1985 (s 2)	s 5
Australian Government Solicitor (Consequential Amendments) Act 1984	10, 1984	10 Apr 1984	s 4(1), (3): 1 July 1984 (s 2(1)) Sch: 16 Dec 1985 (s 2(2))	s 4(1), (3)
Public Service Reform Act 1984	63, 1984	25 June 1984	Sch 5: 20 July 1984 (s 2(4), gaz 1984, No S276)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 6(1) and Sch 1: 25 Oct 1984 (s 2(9), (32))	s 6(1)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s 8 and Sch 1: 16 Dec 1985 (s 2(1), (6))	s 8, 16
Statute Law (Miscellaneous Provisions) Act (No. 1) 1986	76, 1986	24 June 1986	Sch 1 (in part): 24 June 1986 (s 2(1)) Sch 1 (in part): 1 Oct 1986 (s 2(6) and gaz 1986, No S471)	s 9
Intelligence and Security (Consequential Amendments) Act 1986	102, 1986	17 Oct 1986	s 11-14: 1 Feb 1987 (s 2)	—
Statute Law (Miscellaneous Provisions) Act (No. 2) 1986	168, 1986	18 Dec 1986	Sch 1: 18 Dec 1986 (s 2(1))	s 5(1)
Proceeds of Crime (Miscellaneous Amendments) Act 1987	73, 1987	5 June 1987	s 15-18: 5 June 1987 (s 2)	—
Crimes Legislation Amendment Act 1987	120, 1987	16 Dec 1987	s 12, 13 and 15: 13 Jan 1988 (s 2(6)) s 11, 14 and 75: 1 Mar 1989 (s 2(1) and gaz 1989, No S54) s 16, 17 and Sch 1: 19 Dec 1988 (s 2(1) and gaz 1988 No S384)	s 75

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s 5(1), (6), (7) and Sch: 18 Dec 1987 (s 2(1))	s 5(1), (6) and (7)
Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989	63, 1989	19 June 1989	s 3-5: 1 July 1989 (s 2(1) and gaz 1989, No S230)	—
Crimes Legislation Amendment Act 1989	108, 1989	30 June 1989	s 6-9, 12 and Sch 1: 30 June 1989 (s 2(1)) s 10: <u>awaiting</u> commencement (s 2(2))	s 12

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

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; No 63, 1984; No 165, 1984; No 141, 1987; No 63, 1989
s 3A.....	ad No 84, 1960
s 3B.....	ad No 67, 1982 am No 193, 1985
Part IA	
Part IA heading.....	ad No 84, 1960
s 4A.....	ad No 120, 1987
s 4B.....	ad No 120, 1987 am No 108, 1989
s 4C.....	ad No 120, 1987
s 4D.....	ad No 120, 1987
s 4E.....	ad No 120, 1987
s 4F.....	ad No 120, 1987
s 4G.....	ad No 120, 1987
s 4H.....	ad No 120, 1987
s 4J.....	ad No 120, 1987 am No 108, 1989
s 4K.....	ad No 120, 1987
s 5.....	am No 9, 1926; No 84, 1960; No 153, 1982; No 120, 1987
s 6.....	am No 84, 1960; No 67, 1982; No 120, 1987
s 7.....	am No 9, 1926; No 84, 1960; No 120, 1987
s 7A.....	ad No 54, 1920

Endnote 4—Amendment history

Provision affected	How affected
	am No 84, 1960; No 93, 1966; No 216, 1973; No 67, 1982; No 120, 1987; No 108, 1989
s 8A.....	ad No 9, 1926
	am No 84, 1960; No 76, 1986; No 120, 1987
s 9.....	am No 9, 1926; No 84, 1960; No 67, 1982
s 10.....	am No 9, 1926; No 84, 1960; No 168, 1986; No 120, 1987
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
s 15.....	am No 67, 1982
s 16.....	am No 93, 1966; No 67, 1982
	rep No 120, 1987
s 17.....	am No 84, 1960; No 67, 1982; No 80, 1982
s 17A.....	ad No 67, 1982
s 18.....	am No 9, 1926; No 84, 1960
s 18A.....	ad No 84, 1960
	am No 67, 1982; No 193, 1985; No 73, 1987
s 19.....	am No 80, 1950; No 84, 1960
	rs No 67, 1982
s 19A.....	ad No 84, 1960
	am No 33, 1973; No 67, 1982
s 19B.....	ad No 84, 1960
	rs No 67, 1982
s 20.....	am No 9, 1926
	rs No 67, 1982
	am No 108, 1989

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 20A.....	ad No 84, 1960 am No 33, 1973 rs No 67, 1982 am No 80, 1982
s 20AA.....	ad No 67, 1982 am No 80, 1982; No 114, 1983; No 10, 1984
s 20AB.....	ad No 67, 1982 am No 193, 1985
s 20AC.....	ad No 67, 1982 am No 80, 1982
s 20B.....	ad No 84, 1960 am No 33, 1973; No 67, 1982
s 20C.....	ad No 84, 1960 am No 67, 1982
s 21.....	am No 9, 1926; No 67, 1982
s 21A.....	ad No 9, 1926 am No 33, 1973; No 67, 1982
s 21AA.....	ad No 67, 1982 am No 91, 1983; No 114, 1983
s 21B.....	ad No 9, 1926 rs No 84, 1960 am No 33, 1973; No 67, 1982
s 21C.....	ad No 9, 1926
s 21D.....	ad No 84, 1960
s 22.....	am No 67, 1982
s 23.....	am No 84, 1960; No 67, 1982
Part II	
s 24.....	rs No 84, 1960 am No 33, 1973; No 67, 1982
s 24AA.....	ad No 84, 1960 am No 67, 1982

Endnote 4—Amendment history

Provision affected	How affected
s 24AB	ad No 84, 1960 am No 33, 1973; No 67, 1982
s 24AC	ad No 84, 1960 am No 67, 1982
s 24A	ad No 54, 1920 am No 84, 1960; No 102, 1986
s 24B	ad No 54, 1920
s 24C	ad No 54, 1920 am No 67, 1982; No 102, 1986
s 24D	ad No 54, 1920 am No 67, 1982; No 102, 1986
s 24E	ad No 54, 1920 am No 93, 1966; No 67, 1982; No 108, 1989
s 24F	ad No 84, 1960 am No 33, 1973; No 67, 1982; No 102, 1986
s 25	am No 80, 1950; No 84, 1960; No 67, 1982
s 26	rs No 84, 1960
s 27	am No 67, 1982
s 28	am No 67, 1982
s 29	am No 67, 1982; No 120, 1987
s 29A	ad No 9, 1926 am No 67, 1982
s 29B	ad No 9, 1926 am No 6, 1941; No 67, 1982
s 29C	ad No 9, 1926 rs No 84, 1960 am No 67, 1982
s 29D	ad No 165, 1984 am No 76, 1986
s 30	am No 84, 1960; No 67, 1982

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
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
s 30AA.....	ad No 30, 1932
	am No 5, 1937; No 33, 1973; No 19, 1979; No 67, 1982
s 30AB.....	ad No 30, 1932
	am No 93, 1966; No 67, 1982
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
s 30FA.....	ad No 30, 1932
s 30FB.....	ad No 30, 1932
	am No 33, 1973; No 67, 1982
	rep No 136, 1983
s 30FC.....	ad No 30, 1932
	am No 93, 1966; No 67, 1982
s 30FD.....	ad No 30, 1932
	am No 33, 1973; No 19, 1979; No 67, 1982
s 30G.....	ad No 9, 1926
	am No 84, 1960
s 30H.....	ad No 9, 1926
s 30J.....	ad No 9, 1926
	am No 33, 1973

Endnote 4—Amendment history

Provision affected	How affected
s 30K.....	ad No 9, 1926 am No 67, 1982
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
s 30P.....	ad No 9, 1926 rep No 33, 1973
s 30Q.....	ad No 9, 1926 rep No 33, 1973
s 30R.....	ad No 9, 1926 am No 67, 1982
Part III	
s 31.....	am No 84, 1960; No 67, 1982
s 32.....	am No 67, 1982
s 33.....	am No 84, 1960; No 67, 1982
s 34.....	am No 67, 1982
s 35.....	am No 216, 1973; No 67, 1982
s 36.....	am No 67, 1982; No 73, 1987
s 36A.....	ad No 84, 1960 am No 67, 1982
s 37.....	am No 67, 1982
s 38.....	am No 67, 1982
s 39.....	am No 67, 1982; No 73, 1987
s 40.....	rs No 84, 1960 am No 67, 1982
s 41.....	am No 84, 1960; No 67, 1982

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 42.....	am No 67, 1982
s 43.....	am No 67, 1982; No 73, 1987
s 44.....	am No 84, 1960; No 67, 1982
s 45.....	am No 84, 1960; No 67, 1982
s 46.....	am No 67, 1982; No 120, 1987; No 108, 1989
s 47.....	am No 67, 1982 rs No 120, 1987 am No 108, 1989
s 47A.....	ad No 120, 1987
s 47B.....	ad No 120, 1987 am No 108, 1989
s 47C.....	ad No 120, 1987 am No 108, 1989
s 48.....	am No 216, 1973; No 67, 1982 rs No 120, 1987 am No 108, 1989
s 48A.....	ad No 141, 1987
s 48B.....	ad No 141, 1987
s 49.....	am No 84, 1960; No 67, 1982
s 50.....	am No 84, 1960; No 67, 1982
Part IV.....	rep No 122, 1981
s 51.....	am No 80, 1950; No 10, 1955; No 84, 1960 rep No 122, 1981
s 52.....	am No 84, 1960 rep No 122, 1981
s 53.....	rep No 122, 1981
s 54.....	rep No 122, 1981
s 55.....	rep No 122, 1981
s 56.....	am No 84, 1960 rep No 122, 1981

Endnote 4—Amendment history

Provision affected	How affected
s 57.....	rep No 122, 1981
s 58.....	am No 84, 1960 rep No 122, 1981
s 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 62A.....	ad No 10, 1955 rs No 84, 1960 rep No 122, 1981
Part V	
s 63.....	am No 80, 1950; No 67, 1982; No 108, 1989
s 63A.....	ad No 9, 1926 rep No 122, 1981
s 65.....	am No 84, 1960; No 216, 1973; No 67, 1982
s 66.....	am No 84, 1960; No 67, 1982
s 67.....	am No 9, 1926; No 67, 1982; No 108, 1989
s 68.....	am No 67, 1982
s 69.....	am No 84, 1960; No 67, 1982
Part VI	
s 70.....	rs No 84, 1960 am No 67, 1982; No 141, 1987
s 71.....	rs No 9, 1926 am No 84, 1960; No 67, 1982
s 71A.....	ad No 9, 1926 am No 67, 1982
s 72.....	am No 9, 1926; No 67, 1982; No 80, 1982

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 73.....	rs No 9, 1926 am No 84, 1960 rs No 67, 1982 am No 141, 1987
s 73A.....	ad No 67, 1982
s 74.....	am No 67, 1982
s 75.....	am No 67, 1982; No 141, 1987
s 76.....	am No 9, 1926; No 67, 1982
Part VIA	
Part VIA.....	ad No 108, 1989
s 76A.....	ad No 108, 1989
s 76B.....	ad No 108, 1989
s 76C.....	ad No 108, 1989
s 76D.....	ad No 108, 1989
s 76E.....	ad No 108, 1989
s 76F.....	ad No 108, 1989
Part VII	
Part VII heading.....	rs No 84, 1960
s 77.....	am No 9, 1926 rs No 84, 1960
s 78.....	am No 77, 1946 rs No 84, 1960 am No 67, 1982
s 79.....	am No 77, 1946 rs No 84, 1960 am No 33, 1973; No 67, 1982
s 80.....	am No 77, 1946; No 84, 1960; No 33, 1973; No 67, 1982
s 81.....	am No 84, 1960; No 33 1973; No 216, 1973; No 155, 1979; No 70, 1980; No 67, 1982
s 82.....	rs No 84, 1960
s 83.....	am No 84, 1960; No 67, 1982

Endnote 4—Amendment history

Provision affected	How affected
s 83A.....	ad No 84, 1960 am No 67, 1982
s 83B.....	ad No 84, 1960
s 84.....	rs No 84, 1960 am No 67, 1982
s 84A.....	ad No 84, 1960
s 85.....	am No 216, 1973
s 85A.....	ad No 84, 1960
s 85B.....	ad No 84, 1960 am No 67, 1982
s 85C.....	ad No 84, 1960
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
s 85F.....	ad No 63, 1989
s 85G.....	ad No 63, 1989
s 85H.....	ad No 63, 1989
s 85J.....	ad No 63, 1989
s 85K.....	ad No 63, 1989
s 85L.....	ad No 63, 1989
s 85M.....	ad No 63, 1989
s 85N.....	ad No 63, 1989
s 85P.....	ad No 63, 1989
s 85Q.....	ad No 63, 1989
s 85R.....	ad No 63, 1989
s 85S.....	ad No 63, 1989
s 85T.....	ad No 63, 1989

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 85U.....	ad No 63, 1989
s 85V.....	ad No 63, 1989
s 85W.....	ad No 63, 1989
s 85X.....	ad No 63, 1989
s 85Y.....	ad No 63, 1989
s 85Z.....	ad No 63, 1989
s 85ZA.....	ad No 63, 1989
Part VIIB	
Part VIIB.....	ad No 63, 1989
s 85ZB.....	ad No 63, 1989
s 85ZC.....	ad No 63, 1989
s 85ZD.....	ad No 63, 1989
s 85ZE.....	ad No 63, 1989
s 85ZF.....	ad No 63, 1989
s 85ZG.....	ad No 63, 1989
s 85ZH.....	ad No 63, 1989
s 85ZJ.....	ad No 63, 1989
s 85ZK.....	ad No 63, 1989
Part VIIC	
Part VIIC.....	<u>ad No 108, 1989</u>
Division 1	
s 85ZL.....	<u>ad No 108, 1989</u>
s 85ZM.....	<u>ad No 108, 1989</u>
s 85ZN.....	<u>ad No 108, 1989</u>
s 85ZP.....	<u>ad No 108, 1989</u>
s 85ZQ.....	<u>ad No 108, 1989</u>
Division 2	
s 85ZR.....	<u>ad No 108, 1989</u>
s 85ZS.....	<u>ad No 108, 1989</u>
s 85ZT.....	<u>ad No 108, 1989</u>
s 85ZU.....	<u>ad No 108, 1989</u>

Endnote 4—Amendment history

Provision affected	How affected
Division 3	
s 85ZV	<u>ad No 108, 1989</u>
s 85ZW	<u>ad No 108, 1989</u>
Division 4	
s 85ZX	<u>ad No 108, 1989</u>
s 85ZY	<u>ad No 108, 1989</u>
Division 5	
s 85ZZ.....	<u>ad No 108, 1989</u>
s 85ZZA.....	<u>ad No 108, 1989</u>
s 85ZZB.....	<u>ad No 108, 1989</u>
s 85ZZC.....	<u>ad No 108, 1989</u>
s 85ZZD.....	<u>ad No 108, 1989</u>
s 85ZZE.....	<u>ad No 108, 1989</u>
s 85ZZF.....	<u>ad No 108, 1989</u>
s 85ZZG.....	<u>ad No 108, 1989</u>
Division 6	
s 85ZZH.....	<u>ad No 108, 1989</u>
s 85ZZJ.....	<u>ad No 108, 1989</u>
s 85ZZK.....	<u>ad No 108, 1989</u>
Part VIII	
s 86.....	am No 6, 1915 rs No 84, 1960 am No 67, 1982; No 165, 1984; No 120, 1987
s 86A.....	ad No 165, 1984 am No 76, 1986
s 87.....	am No 67, 1982
s 88.....	am No 67, 1982
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
s 89A.....	ad No 13, 1928

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rs No 84, 1960
	am No 67, 1982
s 90.....	am No 93, 1966; No 67, 1982
s 90A.....	ad No 10, 1955
	am No 93, 1966; No 67, 1982
s 90B.....	ad No 84, 1960
	am No 216, 1973; No 67, 1982
s 91.....	ad No 30, 1932
	am No 84, 1960
	rep No 33, 1973
	ad No 67, 1982
