Crimes Act 1914

No. 12, 1914

Compilation No. 103

Compilation date:	1 December 2014
Includes amendments up to:	Act No. 116, 2014
Registered:	2 December 2014

This compilation is in 2 volumes

Volume 1:	sections 1–23W
Volume 2:	**sections 23WA–91** **Schedule** **Endnotes**

Each volume has its own contents

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About this compilation

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 December 2014 (the ***compilation date***).

This compilation was prepared on 1 December 2014.

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 ComLaw (www.comlaw.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 series page on ComLaw 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.

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part ID—Forensic procedures

Simplified outline of operation of Part

This Part provides for forensic procedures to be carried out on:

- suspects in relation to indictable offences (Divisions 3, 4 and 5); and
- offenders in relation to prescribed and serious offences (Division 6A); and
- volunteers (Division 6B).

If the carrying out of a forensic procedure is authorised under this Part, it must be carried out in accordance with rules and procedures set out in Division 6.

If a forensic procedure covered by this Part is carried out without proper authority under this Part, evidence obtained through the procedure may be inadmissible in proceedings against the suspect (Division 7).

However, certain rules are modified or do not apply if the forensic procedure is carried out in response to a request by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*) or a request by a foreign law enforcement agency (Division 9A).

This Part also:

- contains offences in relation to the Commonwealth DNA database system and the National Criminal Investigation DNA Database (***NCIDD***) (Division 8A); and
- provides for the whole or a part of the Commonwealth DNA database system to be integrated with the whole or a part of one or more State/Territory DNA database systems to form part of NCIDD (Division 8A); and

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- provides for the exchange of information in the Commonwealth DNA database system or a State/Territory DNA database system and the protection of the information that is exchanged (Division 11); and
- provides for the destruction of forensic material (Division 8).

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Division 1—Explanation of expressions used

23WA Definitions

(1) In this Part:

Aboriginal legal aid organisation has the same meaning as the expression has in Part IC.

accredited laboratory means:

(a) a forensic laboratory accredited by the National Association of Testing Authorities, Australia; or

(b) a forensic laboratory that is of a kind prescribed by the regulations for the purposes of this paragraph.

adult means a person of or above 18 years of age.

AFP function means a function of the Australian Federal Police set out in section 8 of the *Australian Federal Police Act 1979*.

appropriately qualified, in relation to carrying out a forensic procedure, means:

(a) having suitable professional qualifications or experience to carry out the forensic procedure; or

(b) qualified under the regulations to carry out the forensic procedure.

authorised applicant for an order for the carrying out of a forensic procedure means:

(a) if the procedure will be carried out on a suspect—the constable in charge of a police station or the investigating constable in relation to a relevant offence; or

(b) if the procedure will be carried out on an offender—the constable in charge of a police station, the investigating constable in relation to a relevant offence or the Director of Public Prosecutions.

child means a person who is at least 10 years of age but under 18 years of age.

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Commissioner means the Commissioner of the Australian Federal Police and includes a constable or AFP appointee (within the meaning of the *Australian Federal Police Act 1979*) to whom the Commissioner has delegated the functions and powers conferred or imposed on the Commissioner under this Act.

Note: See section 23YQ for the Commissioner's power to delegate.

Commonwealth DNA database system is defined in section 23YDAC.

corresponding law is defined in section 23YUA.

destroy is defined in subsection (5).

exercise a function includes perform a duty.

foreign law enforcement agency means:

(a) a police force (however described) of a foreign country; or

(b) any other authority or person responsible for the enforcement of the laws of the foreign country.

foreign serious offence has the same meaning as in the *Mutual Assistance in Criminal Matters Act 1987*.

forensic evidence means one or more of the following:

(a) evidence of forensic material, or evidence consisting of forensic material, taken from a suspect or a volunteer by a forensic procedure;

(b) evidence of any results of the analysis of the forensic material;

(c) any other evidence obtained as a result of or in connection with the carrying out of the forensic procedure.

forensic material means:

(a) samples; or

(b) hand prints, finger prints, foot prints or toe prints; or

(c) photographs or video recordings; or

(d) casts or impressions;

taken from or of a person's body by a forensic procedure.

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forensic procedure means:

(a) an intimate forensic procedure; or

(b) a non-intimate forensic procedure;

but does not include any intrusion into a person's body cavities except the mouth or the taking of any sample for the sole purpose of establishing the identity of the person from whom the sample is taken.

function includes a power, authority or duty.

incapable person means an adult who:

(a) is incapable of understanding the general nature and effect of, and purposes of carrying out, a forensic procedure; or

(b) is incapable of indicating whether he or she consents or does not consent to a forensic procedure being carried out.

in custody is explained in subsection (2).

indictable offence means:

(a) an indictable offence against a law of the Commonwealth; or

(b) a State offence that has a federal aspect and that is an indictable offence against the law of that State.

inform is explained in subsection (4).

informed consent is explained in sections 23WF, 23WG, 23XWG and 23XWR.

interview friend is explained in section 23WB.

intimate forensic procedure means the following forensic procedures:

(a) an external examination of the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;

(b) the taking of a sample of blood (other than by a finger prick);

(d) the taking of a sample of pubic hair;

(e) the taking of a sample by swab or washing from the external genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;

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(f) the taking of a sample by vacuum suction, by scraping or by lifting by tape from the external genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;

(g) the taking of a dental impression;

(h) the taking of a photograph or video recording of, or an impression or cast of a wound from, the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts.

investigating constable means:

(a) in the case of a request by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*) or a foreign law enforcement agency—the constable in charge of coordinating the response to the request; and

(b) in any other case—the constable in charge of the investigation of the commission of an offence in relation to which a forensic procedure is carried out or proposed to be carried out.

judge means a State or Territory judge.

legal representative of a suspect means a legal practitioner acting for the suspect.

member of the opposite sex of a person is defined in subsection (7).

member of the same sex as a person is defined in subsection (7).

National Criminal Investigation DNA Database or ***NCIDD*** is defined in section 23YDAC.

non-intimate forensic procedure means the following forensic procedures:

(a) an examination of a part of the body other than the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts, that requires touching of the body or removal of clothing;

(aa) the taking of a sample of blood by a finger prick;

(ab) the taking of a sample of saliva, or a sample by buccal swab;

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(b) the taking of a sample of hair other than pubic hair;
(c) the taking of a sample from a nail or under a nail;
(d) the taking of a sample by swab or washing from any external part of the body other than the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;
(e) the taking of a sample by vacuum suction, by scraping or by lifting by tape from any external part of the body other than the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;
(f) the taking of a hand print, finger print, foot print or toe print;
(g) the taking of a photograph or video recording of, or an impression or cast of a wound from, a part of the body other than the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts.

offence does not include an offence against a law of a Territory other than the Australian Capital Territory.

Note: Subsection 3(1) provides that ***Territory*** does not include the Northern Territory.

offender means:
(a) a serious offender; or
(b) a prescribed offender.

order means:
(a) in relation to a suspect—an order of a magistrate under section 23WS or interim order of a magistrate under section 23XA; or
(b) in relation to an offender—an order of a judge or magistrate under section 23XWO; or
(c) in relation to a volunteer—an order of a magistrate under section 23XWU.

participating jurisdiction is defined in section 23YUA.

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police station includes:

(a) a police station of a State or Territory; and

(b) a building occupied by the Australian Federal Police.

prescribed offence means an offence under a law of the Commonwealth, or a State offence that has a federal aspect, punishable by a maximum penalty of imprisonment for life or 2 or more years.

prescribed offender means a person who is under sentence for a prescribed offence.

Note: For the meaning of ***under sentence***, see subsection (8).

prison medical officer means, in relation to a prison or other place of detention, a person appointed or acting as medical officer for the prison or other place of detention.

recognised transgender person means a person the record of whose sex is altered under Part 5A of the *Births, Deaths and Marriages Registration Act 1995* of New South Wales, or under the corresponding provisions of a law of another Australian jurisdiction.

relevant offence means:

(a) in relation to a person who is a suspect:

(i) the indictable offence in relation to which the person is a suspect; or

(ii) any other indictable offence arising out of the same circumstances; or

(iii) any other indictable offence in respect of which the evidence likely to be obtained as a result of a proposed forensic procedure carried out on the suspect is likely to have probative value; or

(b) in relation to an offender—the offence for which the offender was convicted and to which an application for an order authorising a forensic procedure relates.

responsible person, in relation to the Commonwealth DNA database system, means the person responsible for the care, control and management of the system.

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sample has a meaning affected by subsection (3).

senior police officer means a constable of the rank of sergeant or higher.

serious offence means an offence under a law of the Commonwealth, or a State offence that has a federal aspect, punishable by a maximum penalty of imprisonment for life or 5 or more years.

serious offender means a person who is under sentence for a serious offence.

Note: For the meaning of ***under sentence***, see subsection (8).

suspect, in relation to an indictable offence, means:

(a) a person whom a constable suspects on reasonable grounds has committed the indictable offence; or

(b) a person charged with the indictable offence; or

(c) a person who has been summonsed to appear before a court in relation to the indictable offence; or

(d) a person in respect of whom a forensic procedure has been requested by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*) or a foreign law enforcement agency because the foreign country has:

(i) started investigating whether the person has committed an indictable offence; or

(ii) started proceedings against the person for an indictable offence.

tape recording means audio recording, video recording or recording by other electronic means.

transgender person is defined in subsection (6).

volunteer is defined in section 23XWQ.

(2) In this Part, a person is ***in custody*** if he or she is in the lawful custody of a constable.

(3) In this Part, a ***sample*** taken from a person includes a sample taken from the person that consists of matter from another person's body.

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(4) In this Part, a person ***informs*** another person of a matter if the person informs the other person of the matter, through an interpreter if necessary, in a language (including sign language or braille) in which the other person is able to communicate with reasonable fluency.

Destroy forensic material or information

(5) For the purposes of this Part, a person ***destroys*** forensic material taken from another person by a forensic procedure, the results of the analysis of the material or other information gained from it if the person destroys any means of identifying the forensic material or information with the person from whom it was taken or to whom it relates.

Transgender persons

(6) In this Part, a reference to a person being ***transgender*** or a ***transgender person*** is a reference to a person, whether or not the person is a recognised transgender person:

(a) who identifies as a member of the opposite sex by living, or seeking to live, as a member of the opposite sex; or

(b) who has identified as a member of the opposite sex by living as a member of the opposite sex; or

(c) who, being of indeterminate sex, identifies as a member of a particular sex by living as a member of that sex;

and includes a reference to the person being thought of as a transgender person, whether the person is, or was, in fact a transgender person.

(7) In this Part (other than subsection (6)), a reference:

(a) to a ***member of the opposite sex of a person*** means, if the person is a transgender person, a member of the opposite sex to the sex with which the transgender person identifies; and

(b) to a ***member of the same sex as a person*** means, if the person is a transgender person, a member of the same sex as the sex with which the transgender person identifies.

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(8) For the purposes of the definitions of ***prescribed offender*** and ***serious offender***, a person is ***under sentence*** in relation to a prescribed offence or a serious offence if the person:

(a) is serving a sentence in a prison (including a gaol, lock-up or other place of detention); or

(b) is serving a sentence of a kind, or subject to an order of a kind, provided for in subsection 20AB(1) as a sentence or order that may be passed or made by a court, under that section, in respect of a person convicted of an offence against the law of the Commonwealth; or

(c) is released under a parole order made under subsection 19AL(1) or (2); or

(d) is released on a licence granted under section 19AP; or

(e) being a child or young person, is serving a sentence of a kind, or subject to an order of a kind, provided for in subsection 20C(1) as a sentence or order that, under that section, may be imposed on the child or young person who in a State or Territory is convicted of an offence against the law of the Commonwealth; or

(f) is subject to an order made under Division 9 of Part IB; or

(g) is convicted and conditionally released as provided for in subsection 20(1), either:

(i) in the case of paragraph 20(1)(a)—without sentence being passed; or

(ii) in the case of paragraph 20(1)(b)—after sentence has been passed.

Requests by a foreign country and the police force of a foreign country

(9) The provisions of this Part apply in relation to a forensic procedure carried out because of:

(a) a request by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*); or

(b) a request by a foreign law enforcement agency;

as if a reference to an indictable offence were a reference to a foreign serious offence.

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23WB Interview friends

(1) This section lists the people who may act as an ***interview friend*** of a suspect, offender or volunteer for the purposes of a provision of this Part referring to an interview friend. Different people may act as interview friends of a suspect, offender or volunteer for the purposes of different provisions of this Part.

(2) Where the suspect, offender or volunteer is a child or an incapable person, the following people may act as ***interview friends***:

(a) a parent, guardian or other person chosen by, or acceptable to, the suspect, offender or volunteer;

(b) a legal practitioner acting for the suspect, offender or volunteer;

(c) if the suspect, offender or volunteer is an Aboriginal person or a Torres Strait Islander and none of the previously mentioned persons is available—a representative of an Aboriginal legal aid organisation or a person whose name is on the relevant list maintained under subsection 23J(1) who is chosen by, or acceptable to, the suspect, offender or volunteer;

(d) if there is no available person who is covered by paragraph (a), (b) or (c)—an independent person who is not a constable.

(3) Where the suspect, offender or volunteer is an Aboriginal person or a Torres Strait Islander not covered by subsection (2), the following people may act as ***interview friends***:

(a) a relative or other person chosen by the suspect, offender or volunteer;

(b) a legal practitioner acting for the suspect, offender or volunteer;

(c) if there is no available person who is covered by paragraph (a) or (b)—a representative of an Aboriginal legal aid organisation, or a person whose name is included in the relevant list maintained under subsection 23J(1).

(4) A suspect, offender or volunteer who has a legal representative may also have an interview friend who is not the suspect's, offender's or volunteer's legal representative.

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Division 2—Authority and time limits for forensic procedures on suspects: summary of rules

23WC How forensic procedures may be authorised in different circumstances

The following table shows the circumstances in which a forensic procedure may be carried out on a suspect, and shows the provisions that authorise the carrying out of the procedure.

Authority for forensic procedures

	Suspect	Intimate forensic procedure	Non-intimate forensic procedure
1	adult not in custody	with informed consent under Division 3 by order of a magistrate under Division 5	with informed consent under Division 3 by order of a magistrate under Division 5
2	adult in custody	with informed consent under Division 3 by order of a magistrate under Division 5	with informed consent under Division 3 by order of a senior police officer under Division 4 by order of a magistrate under Division 5
3	incapable person (whether or not in custody)	by order of a magistrate under Division 5	by order of a magistrate under Division 5
4	child at least 10 but under 18 (whether or not in custody)	by order of a magistrate under Division 5	by order of a magistrate under Division 5

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Section 23WCA

23WCA Time limits for carrying out forensic procedures

The following table sets out in general terms the time limits that apply to the carrying out of a forensic procedure depending on the status of the suspect and the source of the authority to carry out the procedure.

Time limits for forensic procedures

	Suspect's status	Procedure with suspect's consent (Division 3)	Procedure by order of a constable (Division 4)	Procedure by order of a magistrate (Division 5)
1	Child or incapable person not in custody	Not applicable	Not applicable	Procedure must be carried out within 2 hours after suspect presents to investigating constable, disregarding "dead time" described in subsection 23XGB(2) (see section 23XGB).
2	Aboriginal person or Torres Strait Islander (not a child or incapable person) not in custody	Procedure must be carried out within 2 hours after suspect presents to investigating constable, disregarding "dead time" described in subsection 23WLA(2) (see section 23WLA).	Not applicable	Procedure must be carried out within 2 hours after suspect presents to investigating constable, disregarding "dead time" described in subsection 23XGB(2) (see section 23XGB).

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Time limits for forensic procedures

	Suspect's status	Procedure with suspect's consent (Division 3)	Procedure by order of a constable (Division 4)	Procedure by order of a magistrate (Division 5)
3	Suspect (not covered by item 1 or 2) not in custody	Procedure must be carried out within 4 hours after suspect presents to investigating constable, disregarding "dead time" described in subsection 23WL A(2) (see section 23WLA).	Not applicable	Procedure must be carried out within 4 hours after suspect presents to investigating constable, disregarding "dead time" described in subsection 23XGB(2) (see section 23XGB).
4	Child or incapable person in custody	Not applicable	Not applicable	In addition to the detention period permitted under Part IC, suspect may be detained for up to 2 hours after magistrate's order or suspect's arrest, disregarding "dead time" described in subsection 23XGD(2) (see Subdivision D of Division 5).

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Section 23WCA

Time limits for forensic procedures

	Suspect's status	Procedure with suspect's consent (Division 3)	Procedure by order of a constable (Division 4)	Procedure by order of a magistrate (Division 5)
5	Aboriginal person or Torres Strait Islander (not a child or incapable person) in custody	Suspect may be detained in accordance with Part IC, but the detention period permitted by Part IC is not extended in connection with carrying out the procedure (see subsections 23WD(3) and (4)).	Suspect may be detained in accordance with Part IC, but the detention period permitted by Part IC is not extended in connection with carrying out the procedure (see subsections 23WM(3) and (4)).	In addition to the detention period permitted under Part IC, suspect may be detained for up to 2 hours after magistrate's order or suspect's arrest, disregarding "dead time" described in subsection 23XGD(2) (see Subdivision D of Division 5).
6	Suspect (not covered by item 4 or 5) in custody	Suspect may be detained in accordance with Part IC, but the detention period permitted by Part IC is not extended in connection with carrying out the procedure (see subsections 23WD(3) and (4)).	Suspect may be detained in accordance with Part IC, but the detention period permitted by Part IC is not extended in connection with carrying out the procedure (see subsections 23WM(3) and (4)).	In addition to the detention period permitted under Part IC, suspect may be detained for up to 4 hours after magistrate's order or suspect's arrest, disregarding "dead time" described in subsection 23XGD(2) (see Subdivision D of Division 5).

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Division 3—Forensic procedures on suspect by consent

23WD Forensic procedure may be carried out with informed consent of suspect

(1) A person is authorised to carry out a forensic procedure on a suspect with the informed consent of the suspect. The person is authorised to carry out the procedure in accordance with Division 6 and not otherwise.

(2) This Division does not authorise the carrying out of a forensic procedure on a suspect who is:

(a) a child; or

(b) an incapable person.

(3) This Division does not authorise keeping a suspect in custody, in order to carry out a forensic procedure, after the expiration of the investigation period provided for by Part IC.

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

(4) Nothing in this Part or Part IC prevents the carrying out of a forensic procedure, with the informed consent of the suspect, during the investigation period provided for by Part IC. However, neither carrying out the forensic procedure, nor any delay associated with carrying out the forensic procedure, operates to extend the investigation period provided for by Part IC.

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

23WE People who cannot consent to forensic procedures

(1) A child cannot consent to a forensic procedure.

(2) An incapable person cannot consent to a forensic procedure.

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23WF Informed consent to forensic procedures—general

(1) This section applies where:
  (a) a constable intends to ask a suspect to consent to a forensic procedure; and
  (b) the constable does not believe on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander.

(2) A suspect not covered by section 23WE gives informed consent to a forensic procedure if the suspect consents after a constable:
  (a) asks the suspect to consent to the forensic procedure under section 23WH; and
  (b) informs the suspect, in accordance with the regulations and section 23WJ, of the matters mentioned in that section; and
  (d) gives the suspect a reasonable opportunity to communicate, or attempt to communicate, with a legal practitioner of the suspect's choice and, subject to subsection (3), to do so in private.

(3) If the suspect is in custody, the constable need not allow the suspect to communicate, or attempt to communicate, with the legal practitioner in private if the constable suspects on reasonable grounds that the suspect might attempt to destroy or contaminate any evidence that might be obtained by carrying out the forensic procedure.

23WG Informed consent to forensic procedures—Aboriginal persons and Torres Strait Islanders

(1) This section applies where:
  (a) a constable intends to ask a suspect to consent to a forensic procedure; and
  (b) the constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander.

(2) A suspect not covered by section 23WE gives informed consent to a forensic procedure if the suspect consents after a constable:
  (a) asks the suspect to consent to the forensic procedure under section 23WH; and

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(b) informs the suspect, in accordance with the regulations and section 23WJ, of the matters mentioned in that section; and

(c) complies with the rest of this section.

(3) The constable must not ask the suspect to consent to the forensic procedure unless:

(a) an interview friend is present; or

(b) the suspect has expressly and voluntarily waived his or her right to have an interview friend present; or

(c) the constable is a senior police officer and he or she believes on reasonable grounds that, having regard to the suspect's level of education and understanding, the suspect is not at a disadvantage in relation to the request to consent by comparison with members of the Australian community generally.

Note: Section 23YK relates to proving a waiver under paragraph (3)(b) of this section.

(4) Before asking the suspect to consent to a forensic procedure, the constable must:

(a) inform the suspect that a representative of an Aboriginal legal aid organisation will be notified that the suspect is to be asked to consent to a forensic procedure; and

(b) notify such a representative accordingly.

(5) The constable is not required to comply with subsection (4) if:

(a) he or she is aware that the suspect has arranged for a legal practitioner to be present while the suspect is asked to consent to the forensic procedure; or

(b) paragraph (3)(b) or (c) applies.

(6) After asking a suspect covered by paragraph (3)(b) or (c) to consent to a forensic procedure, the constable must give the suspect a reasonable opportunity to communicate, or attempt to communicate, with a legal practitioner of the suspect's choice and, subject to subsection (8), to do so in private.

(7) After asking a suspect not covered by paragraph (3)(b) or (c) to consent to a forensic procedure, the constable must allow the suspect to communicate with the interview friend (if any), and with

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the suspect's legal representative (if any), and, subject to subsection (8), to do so in private.

(8) If a suspect covered by subsection (6) or (7) is in custody, the constable need not allow the suspect to communicate, or attempt to communicate, with a legal practitioner, or the suspect's interview friend or legal representative, in private if the constable suspects on reasonable grounds that the suspect might attempt to destroy or contaminate any evidence that might be obtained by carrying out the forensic procedure.

(9) An interview friend (other than a legal representative) of the suspect may be excluded from the presence of the constable and the suspect if the interview friend unreasonably interferes with or obstructs the constable in asking the suspect to consent to the forensic procedure, or in informing the suspect as required by section 23WJ.

23WH Constable may request suspect to consent to forensic procedure

A constable may ask a suspect to undergo a forensic procedure if the constable is satisfied as required by section 23WI.

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

(1) The constable must be satisfied on the balance of probabilities that:
  (a) the person on whom the procedure is proposed to be carried out is a suspect; and
  (b) there are reasonable grounds to believe that the forensic procedure is likely to produce evidence tending to confirm or disprove that the suspect committed a relevant offence; and
  (c) the request for consent to the forensic procedure is justified in all the circumstances; and
  (d) the person on whom the forensic procedure is proposed to be carried out is not a child or an incapable person.

(2) In determining whether a request is justified in all the circumstances, the constable must:

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(a) if the forensic procedure has been requested by a foreign law enforcement agency—balance the public interest in Australia providing and receiving international assistance in criminal matters against the public interest in upholding the physical integrity of the suspect; and

(b) in any other case—balance the public interest in obtaining evidence tending to confirm or disprove that the suspect committed the offence concerned against the public interest in upholding the physical integrity of the suspect.

(3) In balancing those interests, the constable must have regard to the following matters:

(a) the seriousness of the circumstances surrounding the commission of the relevant offence and the gravity of the relevant offence;

(b) the degree of the suspect's alleged participation in the commission of the relevant offence;

(c) the age, physical health and mental health of the suspect, to the extent that they are known to the constable or can reasonably be discovered by the constable (by asking the suspect or otherwise);

(e) whether there is a less intrusive but reasonably practicable way of obtaining evidence tending to confirm or disprove that the suspect committed the relevant offence;

(f) any other matter considered relevant to balancing those interests.

(4) Without limiting the matters that the constable may take into account in considering, for the purposes of paragraph (3)(e), the intrusiveness of the forensic procedure, the constable must (where appropriate) take into account the religious beliefs of the suspect.

23WJ Matters that suspect must be informed of before giving consent

(1) The constable must inform the suspect of the following matters:

(a) that the giving of information under this section, and the giving of consent (if any) by the suspect, is being or will be recorded by audio tape, videotape or other electronic means,

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or in writing, and that the suspect has a right to a copy of that record in a form provided by section 23YF;

(b) the purpose for which the forensic procedure is required;

(c) the offence in relation to which the constable wants the forensic procedure carried out;

(d) the way in which the forensic procedure is to be carried out;

(e) that the forensic procedure may produce evidence against the suspect that might be used in a court of law;

(f) that the forensic procedure will be carried out by an appropriately qualified person;

(g) if relevant, the matters specified in subsection (2);

(h) if the constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander—that the suspect's interview friend may be present while the forensic procedure is carried out;

(i) that the suspect may refuse to consent to the carrying out of the forensic procedure;

(ia) the effect of section 23XZ;

(ib) if the suspect is being asked to undergo a forensic procedure because of a request by a foreign law enforcement agency—the following:

(i) the name of the foreign law enforcement agency that has made the request;

(ii) that forensic evidence resulting from the forensic procedure will be provided to the foreign law enforcement agency;

(iii) that the forensic evidence may be used in proceedings against the suspect in the foreign country;

(iv) that the retention of the forensic evidence will be governed by the laws of the foreign country;

(v) that the retention of the forensic evidence will be subject to undertakings given by the foreign law enforcement agency;

(vi) the content of those undertakings;

(j) the consequences of not consenting, as specified in subsection (3), (4) or (5) (whichever is applicable);

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(k) that information obtained from analysis of forensic material obtained may be placed on the Commonwealth DNA database system and the rules that will apply to its disclosure and use under this Part.

Suspect's right to have medical practitioner or dentist present during intimate forensic procedures

(2) The constable must inform the suspect that the suspect may ask that a medical practitioner or dentist (depending on the kind of forensic procedure) of his or her choice be present while the forensic procedure is carried out (unless the forensic procedure is a non-intimate forensic procedure).

Failure to consent to non-intimate forensic procedure—suspect in custody

(3) If the suspect is in custody and the forensic procedure is a non-intimate forensic procedure, the constable must inform the suspect that, if the suspect does not consent:

(a) a senior police officer may order the carrying out of the forensic procedure under Division 4 if he or she is satisfied of the matters referred to in subsection 23WO(1); or

(b) an application may be made to a magistrate for an order authorising the carrying out of the forensic procedure.

Failure to consent to intimate forensic procedure—suspect in custody

(4) If the suspect is in custody and the forensic procedure is an intimate forensic procedure, the constable must inform the suspect that, if the suspect does not consent, an application may be made to a magistrate for an order authorising the carrying out of the forensic procedure.

Exception—requests by foreign law enforcement agency

(4A) Subsections (3) and (4) do not apply if the suspect is being asked to undergo a forensic procedure because of a request by a foreign law enforcement agency.

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Failure to consent to forensic procedure—suspect not in custody

(5) If the suspect is not in custody and is not being asked to undergo a forensic procedure because of a request by a foreign law enforcement agency, the constable must inform the suspect that, if the suspect does not consent, an application may be made to a magistrate for an order authorising the carrying out of the forensic procedure.

Failure to consent to forensic procedure—procedure requested by foreign law enforcement agency

(6) If the suspect is being asked to undergo a forensic procedure because of a request by a foreign law enforcement agency, the constable must inform the suspect (whether or not the suspect is in custody) that, if the suspect does not consent:

(a) the foreign country may request that the forensic procedure be carried out; and

(b) the Attorney-General may authorise, under the *Mutual Assistance in Criminal Matters Act 1987*, a constable to apply to a magistrate for an order for the carrying out of the forensic procedure.

Note: Under the *Mutual Assistance in Criminal Matters Act 1987*, the Attorney-General may only authorise a constable who is an authorised applicant.

23WK Withdrawal of consent

If a person expressly withdraws consent to the carrying out of a forensic procedure under this Part (or if the withdrawal of such consent can reasonably be inferred from the person's conduct) before or during the carrying out of the forensic procedure, then:

(a) the forensic procedure is to be treated from the time of the withdrawal as a forensic procedure for which consent has been refused; and

(b) the forensic procedure is not to proceed except by order of a constable under Division 4 or a magistrate under Division 5.

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23WL Recording of giving of information and suspect's responses

(1) The constable must, if practicable, ensure that the giving of the information about the proposed forensic procedure and the suspect's responses (if any) are tape recorded.

(2) If tape recording the giving of the information and the suspect's responses (if any) is not practicable, the constable must ensure that a written record of the giving of the information and the suspect's responses (if any) is made, and that a copy of the record is made available to the suspect.

Note 1: Division 9 contains provisions about making copies of material (including copies of tapes) available to the suspect.

Note 2: If a foreign law enforcement agency requests that a forensic procedure be carried out on a suspect, a copy of the tape recording or the written record may also be provided to the foreign law enforcement agency: see subsection 23YQD(2).

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

(1) If a suspect who is not in custody:

(a) consents to a forensic procedure; and

(b) presents himself or herself to the investigating constable to undergo the procedure;

the procedure must be carried out as quickly as reasonably possible but in any case within the following period:

(c) if the investigating constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander—2 hours after the suspect so presents himself or herself;

(d) in any other case—4 hours after the suspect so presents himself or herself.

(2) In working out any period of time for the purposes of subsection (1), the following times are to be disregarded:

(a) the time (if any) that is reasonably required to convey the suspect from the place where the suspect presents himself or herself to the investigating constable to the nearest premises

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where facilities for carrying out the procedure in accordance with this Part are available to the investigating constable;

(b) any time during which carrying out the procedure is suspended or delayed to allow the suspect, or someone else on the suspect's behalf, to communicate with a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person as provided by this Part;

(c) any time during which carrying out the procedure is suspended or delayed to allow such a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person to arrive at the place where the procedure is to be carried out;

(d) any time during which carrying out the procedure is suspended or delayed to allow the suspect to receive medical attention;

(e) any time during which carrying out the procedure is suspended or delayed because of the suspect's intoxication;

(f) any reasonable time during which carrying out the procedure is suspended or delayed to allow the suspect to rest or recuperate;

(g) any time during which carrying out the procedure is suspended or delayed at the request of the suspect.

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

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

(1) A person is authorised to carry out a non-intimate forensic procedure on a suspect by order of a senior police officer under section 23WN. The person is authorised to carry out the procedure in accordance with Division 6 and not otherwise.

(2) This Division does not authorise the carrying out of a forensic procedure on a suspect who is:
  (a) a child; or
  (b) an incapable person.

(2A) This Division does not authorise the carrying out of a forensic procedure on a suspect if the procedure has been requested by:
  (a) a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*); or
  (b) a foreign law enforcement agency.

(3) This Division does not authorise keeping a suspect in custody, in order to carry out a forensic procedure, after the expiration of the investigation period provided for by Part IC.

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

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

Note: By contrast, the carrying out of a forensic procedure in accordance with a magistrate's order under Division 5, and associated delays, may

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delay the expiration of the investigation period provided for by Part IC.

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

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

(a) the suspect has been asked under Division 3 to consent to the carrying out of the forensic procedure; and

(b) the suspect has not consented; and

(c) the senior police officer is satisfied as required by section 23WO.

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

(1) The senior police officer must be satisfied on the balance of probabilities that:

(a) the suspect is in the lawful custody of a constable; and

(b) there are reasonable grounds to believe that the suspect committed a relevant offence; and

(c) there are reasonable grounds to believe that the forensic procedure is likely to produce evidence tending to confirm or disprove that the suspect committed a relevant offence; and

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

(2) In determining whether the carrying out of the forensic procedure without consent is justified in all the circumstances, the senior police officer must balance the public interest in obtaining evidence tending to confirm or disprove that the suspect committed the offence concerned against the public interest in upholding the physical integrity of the suspect.

(3) In balancing those interests, the senior police officer must have regard to the following matters:

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(a) the seriousness of the circumstances surrounding the commission of the relevant offence and the gravity of the relevant offence;
(b) the degree of the suspect's alleged participation in the commission of the relevant offence;
(c) the age, physical health and mental health of the suspect, to the extent that they are known to the senior police officer or can reasonably be discovered by the senior police officer (by asking the suspect or otherwise);
(e) whether there is a less intrusive but reasonably practicable way of obtaining evidence tending to confirm or disprove that the suspect committed the relevant offence;
(f) if the suspect gives any reasons for refusing to consent—the reasons;
(g) any other matter considered relevant to balancing those interests.

(4) Without limiting the matters that the senior police officer may take into account in considering, for the purposes of paragraph (3)(e), the intrusiveness of the forensic procedure, the senior police officer must (where appropriate) take into account the religious beliefs of the suspect.

23WP Record of senior police officer's order

(1) The senior police officer must, at the time of, or as soon as practicable after, make an order under section 23WN, make a record of:
(a) the order made; and
(b) the date and time when the order was made; and
(c) the reasons for making it;
and must sign the record.

(2) The senior police officer must ensure that a copy of the record is made available to the suspect as soon as practicable after the record is made.

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

Subdivision A—General

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

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

23WR Circumstances in which magistrate may order forensic procedure

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

(a) the suspect is not in custody and has not consented to the forensic procedure (whether or not consent has been sought); or

(b) the suspect is in custody and has not consented to the forensic procedure (whether or not consent has been sought); or

(c) under section 23WE, the suspect cannot consent to the forensic procedure; or

(d) the forensic procedure has been requested by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*).

(2) However, a magistrate is not authorised to order the carrying out of a forensic procedure on a suspect if the procedure has been requested by a foreign law enforcement agency.

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Subdivision B—Final orders

23WS Final order for carrying out of forensic procedure

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

(a) subsection 23WR(1) applies; and

(b) the magistrate is satisfied as required by section 23WT.

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

(1) The magistrate must be satisfied on the balance of probabilities that:

(a) the person on whom the procedure is proposed to be carried out is a suspect; and

(b) on the evidence before him or her, there are reasonable grounds to believe that the suspect committed a relevant offence; and

(c) there are reasonable grounds to believe that the forensic procedure is likely to produce evidence tending to confirm or disprove that the suspect committed a relevant offence; and

(ca) if the forensic procedure has been requested by a foreign country—the constable has been authorised by the Attorney-General under the *Mutual Assistance in Criminal Matters Act 1987* to make the application for an order under this Part; and

(d) the carrying out of the forensic procedure is justified in all the circumstances.

(2) In determining whether the carrying out of the forensic procedure is justified in all the circumstances, the magistrate must:

(a) if the forensic procedure has been requested by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*)—balance the public interest in Australia providing and receiving international assistance in criminal matters against the public interest in upholding the physical integrity of the suspect; and

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(b) in any other case—balance the public interest in obtaining evidence tending to confirm or disprove that the suspect committed the offence concerned against the public interest in upholding the physical integrity of the suspect.

(3) In balancing those interests, the magistrate must have regard to the following matters:

(a) the seriousness of the circumstances surrounding the commission of the relevant offence and the gravity of the relevant offence;

(b) the degree of the suspect's alleged participation in the commission of the relevant offence;

(c) the age, physical health and mental health of the suspect, to the extent that they are known to the magistrate or can reasonably be discovered by the magistrate (by asking the suspect or otherwise);

(e) if the suspect is a child or an incapable person—the welfare of the suspect;

(f) whether there is a less intrusive but reasonably practicable way of obtaining evidence tending to confirm or disprove that the suspect committed the relevant offence;

(g) if the suspect gives any reasons for refusing to consent—the reasons;

(h) if the suspect is in custody:

(i) the period for which the suspect has already been detained; and

(ii) the reasons for any delay in proposing the carrying out of the forensic procedure;

(i) any other matter considered relevant to balancing those interests.

(4) Without limiting the matters that the magistrate may take into account in considering, for the purposes of paragraph (3)(f), the intrusiveness of the forensic procedure, the magistrate must (where appropriate) take into account the religious beliefs of the suspect.

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23WU Application for order

(1) An authorised applicant (but no other person) may apply to a magistrate for an order under section 23WS authorising him or her to arrange the carrying out of a forensic procedure on a suspect.

(2) An application for an order must:
  (a) be made in writing; and
  (b) be supported by evidence on oath or by affidavit dealing with the matters referred to in paragraphs 23WT(1)(a), (b), (c), (ca) and (d); and
  (c) specify the type of forensic procedure sought to be carried out; and
  (d) be made in the presence of the suspect (subject to any contrary order made by the magistrate).

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

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

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

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

(1) If the suspect is not in custody, the magistrate may, on the application of a constable:

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(a) issue a summons for the appearance of the suspect at the hearing of the application; or

(b) issue a warrant for the arrest of the suspect for the purpose of bringing the suspect before the magistrate for the hearing of the application.

(2) An application for a summons under subsection (1) must be:

(a) made by information on oath; and

(b) accompanied by an affidavit dealing with matters referred to in paragraphs (3)(a) and (b).

(3) The magistrate may issue a summons only if satisfied:

(a) that the issue of the summons is necessary to ensure the appearance of the suspect at the hearing of the application; or

(b) that the issue of the summons is otherwise justified.

(4) An application for a warrant under subsection (1) must be:

(a) made by information on oath; and

(b) accompanied by an affidavit dealing with matters referred to in paragraphs (5)(a), (b) and (c).

(5) The magistrate may issue a warrant only if satisfied:

(a) that the arrest is necessary to ensure the appearance of the suspect at the hearing of the application, and that the issue of a summons would not ensure that appearance; or

(b) that the suspect might destroy evidence that might be obtained by carrying out the forensic procedure; or

(c) that the issue of the warrant is otherwise justified.

23WX Procedure at hearing of application for order

(1) An order may only be made in the presence of the suspect concerned, subject to any contrary order made by the magistrate.

(2) A suspect who is:

(a) a child; or

(b) an incapable person;

must be represented by an interview friend and may also be represented by a legal practitioner.

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(3) If the applicant believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander not covered by subsection (2), the suspect must be represented by an interview friend and may also be represented by a legal practitioner.

(4) Subsection (3) does not apply if the applicant believes on reasonable grounds that, having regard to the suspect's level of education and understanding, the suspect is not at a disadvantage in relation to the hearing by comparison with members of the Australian community generally.

(5) Any other suspect (including a suspect covered by subsection (4)) may be represented by a legal practitioner.

(6) The suspect or his or her representative:

(a) may call or cross-examine the applicant for the order; and

(b) may, with the leave of the magistrate, call or cross-examine any other witnesses; and

(c) may address the magistrate.

(6A) A magistrate must not give leave under paragraph (6)(b) unless the magistrate is of the opinion that there are substantial reasons why, in the interests of justice, the witness should be called or cross-examined.

(7) In spite of subsection (2) or (3), the suspect's interview friend may be excluded from the hearing if the interview friend unreasonably interferes with or obstructs the hearing of the application.

23WY Making of order

(1) If a magistrate makes an order for the carrying out of a forensic procedure, the magistrate must:

(a) give reasons for making the order; and

(b) ensure that a written record of the order is kept; and

(c) order the suspect to attend for the carrying out of the forensic procedure; and

(d) inform the suspect that reasonable force may be used to ensure that he or she complies with the order for the carrying out of the forensic procedure.

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(2) The magistrate may give directions as to the time, place and manner in which the procedure is to be carried out.

Subdivision C—Interim orders

23XA Interim order for carrying out of a forensic procedure

(1) A magistrate may make an interim order authorising the carrying out of a forensic procedure on a suspect that must be carried out without delay if:

(a) subsection 23WR(1) applies; and

(b) the magistrate is satisfied that the probative value of evidence obtained as a result of the forensic procedure concerned is likely to be lost or destroyed if there is delay in carrying out the procedure; and

(c) the magistrate is satisfied that there is sufficient evidence to indicate that a magistrate is reasonably likely to be satisfied of the existence of the matters referred to in subsection 23WT(1) when the application is finally determined.

(2) An interim order operates as provided by this Subdivision until a magistrate, at a hearing held under Subdivision B, confirms the interim order or disallows the interim order.

Note: Subsection 23XD(2) requires that an interim order specify the intended date, time and place of the later hearing.

(3) Subdivision B applies in relation to an order confirming the interim order in the same way it applies in relation to an order under section 23WS, and an order confirming the interim order is taken to be an order under section 23WS.

23XB Application for interim order

(1) An authorised applicant may, without bringing a suspect before a magistrate and without obtaining an order under section 23WS, make an application seeking an interim order authorising the carrying out of a forensic procedure on a suspect that must be carried out without delay.

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(2) An application for an interim order must:
  (a) be supported by evidence on oath or by affidavit dealing with the matters referred to in paragraphs 23XA(1)(a), (b) and (c); and
  (b) specify the type of forensic procedure sought to be carried out.

(3) An application for an interim order may be made in person or, if that is not practicable, by telephone, radio, telex, fax or other means of transmission.

(4) The suspect must be in the presence of the authorised applicant when the application is made.

(5) If the suspect is:
  (a) a child; or
  (b) an incapable person;
an interview friend or legal representative of the suspect must also be in the presence of the authorised applicant.

(6) If the applicant believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander not covered by subsection (5), an interview friend or legal representative of the suspect must also be in the presence of the authorised applicant.

(7) Subsection (6) does not apply if the applicant believes on reasonable grounds that, having regard to the suspect's level of education and understanding, the suspect is not at a disadvantage in relation to the application by comparison with members of the Australian community generally.

(8) If the suspect is not covered by subsection (5) or (6), the suspect's legal representative (if any) must also be in the presence of the authorised applicant.

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

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23XC Procedure at hearing of application for interim order

(1) If the application is made in person, or by telephone or radio or other form of oral communication, the magistrate must ensure that:
   (a) the suspect; and
   (b) the suspect's legal representative, if any; and
   (c) the suspect's interview friend, if any;

   are given an opportunity to speak to the magistrate.

(2) If the application is made by telex, fax or other form of written communication, the magistrate must ensure that:
   (a) the suspect; and
   (b) the suspect's legal representative, if any; and
   (c) the suspect's interview friend, if any;

   are given an opportunity to make a written submission to accompany the application, or to speak to the magistrate by telephone, radio or other form of oral communication.

23XD Making of interim order

(1) A magistrate who makes an interim order must inform the applicant for the order personally, or by telephone, radio, telex, fax or other means of transmission:
   (a) that the order has been made; and
   (b) of the terms of the order, including the matters mentioned in subsection (2); and
   (c) of any orders made or directions given under subsection (3) in relation to the order.

(2) An interim order must specify the date, time and place at which a further hearing on the application will take place and the application will be finally determined.

(3) A magistrate may make such orders and give such directions in relation to an interim order as the magistrate may make or give in relation to an order under section 23WS.

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23XE Records of application and interim order

(1) The applicant for an interim order must, at the time of, or as soon as practicable after, applying for the interim order, make a record (the ***applicant's record***) of:

(a) the application; and

(b) the grounds for seeking the order; and

(c) the order made; and

(d) the date and time when the order was made; and

(e) the magistrate's name;

and sign the record.

(2) The applicant must send a copy of the applicant's record to the magistrate as soon as practicable after it is made.

(3) The magistrate must, at the time of, or as soon as practicable after, making an interim order, make a record (the ***magistrate's record***) of:

(a) the application; and

(b) the grounds for seeking the order; and

(c) the order made; and

(d) the date and time when the order was made; and

(e) the reasons for making it;

and sign the record.

(4) The magistrate must send a copy of the magistrate's record to the applicant as soon as practicable after the record is made.

(5) The applicant must ensure that a copy of the magistrate's record and a copy of the applicant's record are made available to the suspect as soon as practicable after the applicant receives the magistrate's record.

(6) If the applicant's record does not, in all material respects, accord with the magistrate's record, the order is taken to have had no effect.

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23XF Suspect may be prevented from destroying or contaminating evidence

(1) A constable may, while waiting for the application seeking an interim order to be determined, use reasonable force to prevent the suspect destroying or contaminating any evidence that might be obtained by carrying out the forensic procedure if the order is made.

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

23XG Results of forensic procedure carried out under interim order

(1) A sample taken under an interim order must not be analysed unless:

(a) the sample is likely to perish before a final order is made; or

(b) a final order is made.

(2) A person who conducts an analysis in the circumstances set out in paragraph (1)(a) must not intentionally disclose the results of the analysis to any person:

(a) during the period before a final order is made; or

(b) if the interim order is disallowed.

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

Subdivision D—Time limits for forensic procedures ordered by magistrates

23XGA Application

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

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

(1) If a suspect who is not in custody presents himself or herself to the investigating constable to undergo the procedure ordered by the magistrate, the procedure must be carried out as quickly as reasonably possible but in any case within the following period:

(a) if the suspect is a child or an incapable person, or the investigating constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander—2 hours after the suspect so presents himself or herself;

(b) in any other case—4 hours after the suspect so presents himself or herself.

(2) In working out any period of time for the purposes of subsection (1), the following times are to be disregarded:

(a) the time (if any) that is reasonably required to convey the suspect from the place where the suspect presents himself or herself to the investigating constable to the nearest premises where facilities for carrying out the procedure in accordance with this Part are available to the investigating constable;

(b) any time during which carrying out the procedure is suspended or delayed to allow the suspect, or someone else on the suspect's behalf, to communicate with a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person as provided by this Part;

(c) any time during which carrying out the procedure is suspended or delayed to allow such a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person to arrive at the place where the procedure is to be carried out;

(d) any time during which carrying out the procedure is suspended or delayed to allow the suspect to receive medical attention;

(e) any time during which carrying out the procedure is suspended or delayed because of the suspect's intoxication;

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(f) any reasonable time during which carrying out the procedure is suspended or delayed to allow the suspect to rest or recuperate;

(g) any time during which carrying out the procedure is suspended or delayed at the request of the suspect.

23XGC Arrest of suspect not in custody

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

(2) An application for a warrant must be:
   (a) made by information on oath; and
   (b) accompanied by an affidavit dealing with matters referred to in paragraphs (3)(a) and (b).

(3) The magistrate may issue a warrant only if satisfied:
   (a) that the arrest is necessary to ensure that the forensic procedure can be carried out; or
   (b) that the issue of the warrant is otherwise justified.

(4) A magistrate must not issue a warrant for the arrest of a suspect for the purpose of carrying out a forensic procedure if a warrant has previously been issued (by any magistrate) for the arrest of the suspect for the purpose of carrying out that forensic procedure.

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

(1) If the suspect is in custody (whether or not as the result of the issue of a warrant under section 23XGC), he or she may be detained in custody for such period (the ***detention period***) as is reasonably necessary to carry out the forensic procedure but in any case for no longer than a period starting when:
   (a) the magistrate orders the carrying out of the procedure; or
   (b) the suspect is arrested pursuant to a warrant under section 23XGC;

   whichever is later, and ending:

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(c) if the suspect is a child or an incapable person, or the investigating constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander—2 hours later; or

(d) in any other case—4 hours later.

(2) In working out any period of time for the purposes of subsection (1), the following times are to be disregarded:

(a) the time (if any) that is reasonably required to convey the suspect from the place where the suspect is when the detention period starts to the nearest premises where facilities for carrying out the procedure in accordance with this Part are available to the investigating constable;

(b) any time during which carrying out the procedure is suspended or delayed to allow the suspect, or someone else on the suspect's behalf, to communicate with a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person as provided by this Part;

(c) any time during which carrying out the procedure is suspended or delayed to allow such a legal practitioner, friend, relative, parent, guardian, interpreter, medical practitioner, dentist or other person to arrive at the place where the procedure is to be carried out;

(d) any time during which carrying out the procedure is suspended or delayed to allow the suspect to receive medical attention;

(e) any time during which carrying out the procedure is suspended or delayed because of the suspect's intoxication;

(f) any reasonable time during which carrying out the procedure is suspended or delayed to allow the suspect to rest or recuperate;

(g) any time during which the suspect is being questioned under Part IC;

(h) any time that is to be disregarded under subsection 23C(7) or 23DB(9).

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Subdivision E—Reports of proceedings under Division

23XH Restrictions on publication

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

(a) the name of the suspect; or

(b) any information likely to enable the identification of the suspect;

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

Penalty: Imprisonment for 12 months.

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Division 6—Carrying out forensic procedures on suspects

Subdivision A—General provisions

23XI General rules for carrying out forensic procedures

A forensic procedure:

(a) must be carried out in circumstances affording reasonable privacy to the suspect; and

(b) except as permitted (expressly or impliedly) by other provisions of this Part, must not be carried out in the presence or view of a person who is of the opposite sex to the suspect; and

(c) must not be carried out in the presence or view of a person whose presence is not necessary for the purposes of the forensic procedure or required or permitted by another provision of this Part; and

(d) must not involve the removal of more clothing than is necessary for the carrying out of the procedure; and

(e) must not involve more visual inspection than is necessary for the carrying out of the procedure.

23XIA No questioning during forensic procedure

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

23XIB Suspect must be cautioned before forensic procedure starts

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

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23XJ Use of force in carrying out forensic procedures

(1) Subject to subsection (2) and section 23XK, a person authorised to carry out a forensic procedure on a person, or a constable, may use reasonable force:
  (a) to enable a forensic procedure to be carried out; or
  (b) to prevent loss, destruction or contamination of any sample.

(2) All forensic procedures are to be carried out in a manner consistent with appropriate medical or other relevant professional standards.

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

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

23XL Taking of hair samples

A person is authorised to take a sample of hair of a suspect by removing the root of the hair only if:
  (a) the person takes only so much hair as the person believes is necessary for analysis of the sample, or other examination of the hair, to be carried out for the purpose of investigating the offence; and
  (b) the sample is taken using the least painful technique known and available to the person.

Subdivision B—Persons involved in forensic procedures

23XM Persons who may carry out forensic procedures

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

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(2) The third column of the table following subsection (4) shows, for each forensic procedure, whether the suspect is entitled to request that a medical practitioner or dentist of the suspect's choice is present while the forensic procedure is carried out.

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

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

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

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

Who may carry out forensic procedures

	Forensic procedure	Persons who may carry out forensic procedure	Is suspect entitled to request presence of medical practitioner or dentist of suspect's choice?
1	external examination of the genital or anal area, the buttocks or, in the case of a female, the breasts	medical practitioner nurse appropriately qualified person	yes (medical practitioner)
2	the taking of a sample of blood (other than by a finger prick)	medical practitioner nurse appropriately qualified person	yes (medical practitioner)
4	the taking of a sample of pubic hair	medical practitioner nurse	yes (medical practitioner)

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Who may carry out forensic procedures			
	Forensic procedure	**Persons who may carry out forensic procedure**	**Is suspect entitled to request presence of medical practitioner or dentist of suspect's choice?**
		appropriately qualified person	
5	the taking of a sample by swab or washing from the external genital or anal area, the buttocks or, in the case of a female, the breasts	medical practitioner nurse appropriately qualified person	yes (medical practitioner)
6	the taking of a sample by vacuum suction, scraping or lifting by tape from the external genital or anal area, the buttocks or, in the case of a female, the breasts	medical practitioner nurse appropriately qualified person	yes (medical practitioner)
7	the taking of a dental impression	medical practitioner dentist dental technician	yes (dentist or medical practitioner)
8	the taking of a photograph or a video recording of, or an impression or cast of a wound from, the genital or anal area, the buttocks or, in the case of a female, the breasts	appropriately qualified person	yes (medical practitioner)
9	external examination of a part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts, that requires	medical practitioner nurse appropriately qualified person	no

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Who may carry out forensic procedures			
	Forensic procedure	**Persons who may carry out forensic procedure**	**Is suspect entitled to request presence of medical practitioner or dentist of suspect's choice?**
	touching of the body or removal of clothing		
9A	the taking of a sample of blood by a finger prick	medical practitioner nurse constable appropriately qualified person	no
9B	the taking of a sample of saliva, or a sample by buccal swab	medical practitioner dentist dental technician nurse constable appropriately qualified person	no
10	the taking of a sample of hair other than pubic hair	medical practitioner nurse constable appropriately qualified person	no
11	the taking of a sample from a nail or from under a nail	medical practitioner nurse constable appropriately qualified person	no
12	the taking of a sample by swab or washing from any external part of the body other than the genital or anal area, the buttocks or, in the case of a female, the breasts	medical practitioner nurse appropriately qualified person	no

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Who may carry out forensic procedures

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

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

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

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

(1) If practicable, an intimate forensic procedure (other than the taking of a sample of blood or a dental impression) is to be carried out:
  (a) if the suspect is an adult—by a person of the same sex as the suspect; or
  (b) if the suspect is a child—by a person of the sex chosen by the suspect or, if the suspect does not wish to make such a choice, by a person of the same sex as the suspect.

(2) If practicable, a non-intimate forensic procedure for which the suspect is required to remove clothing other than his or her overcoat, coat, jacket, gloves, socks, shoes and hat is to be carried out:
  (a) if the suspect is an adult—by a person of the same sex as the suspect; or
  (b) if the suspect is a child—by a person of the sex chosen by the suspect or, if the suspect does not wish to make such a choice, by a person of the same sex as the suspect.

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

23XO Person may get help to carry out forensic procedures

(1) A person who is authorised to carry out a forensic procedure under the table in section 23XM is authorised to ask another person to

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help him or her to carry out the procedure, and the other person is authorised to give that help.

(2) A person who is asked to help carry out a forensic procedure need not be a person mentioned in the table in section 23XM.

(3) A person who is asked to help carry out a forensic procedure may use reasonable force to enable the forensic procedure to be carried out.

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

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

(1) A suspect is entitled to request a medical practitioner or dentist (the ***expert***) of his or her choice as shown in the table in section 23XM to be present while a forensic procedure (other than a non-intimate forensic procedure) is carried out.

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

(2) The expert chosen is to be present at the forensic procedure unless he or she:

(a) is unable, or does not wish, to attend; or

(b) cannot be contacted;

within a reasonable time or, if relevant, within the time in which the person responsible for the effective carrying out of the forensic procedure considers the forensic procedure should be carried out if it is to be effective in affording evidence of the relevant offence.

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

(1) This section applies if the suspect is:

(a) a child; or

(b) an incapable person.

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(2) Either an interview friend or a legal representative (if he or she is not the interview friend) of the suspect must be present while the forensic procedure is carried out. Both an interview friend and a legal representative may be present.

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

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

(1) This section applies if the investigating constable believes on reasonable grounds that the suspect is an Aboriginal person or a Torres Strait Islander not covered by section 23XQ.

(2) Either an interview friend or a legal representative (if he or she is not the interview friend) of the suspect must be present while the forensic procedure is carried out. Both an interview friend and a legal representative may be present.

(3) Subsection (2) does not apply if:

(a) the investigating constable believes on reasonable grounds that, having regard to the suspect's level of education and understanding, the suspect is not at a disadvantage in respect of the carrying out of the forensic procedure by comparison with members of the Australian community generally; or

(b) the suspect expressly and voluntarily waives his or her right to have an interview friend present.

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

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

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23XS Presence of constables

(1) The number of constables that may be present during the carrying out of a forensic procedure must not exceed that which is reasonably necessary to ensure that the procedure is carried out effectively and in accordance with this Part.

(2) Where the presence of a constable (other than a constable who is carrying out or helping to carry out the procedure) is reasonably necessary to ensure that a forensic procedure is carried out effectively and in accordance with this Part, the constable is:

(a) if the suspect is a child—to be of the same sex as the suspect; or

(b) in any other case—to be of the same sex as the suspect unless it is not practicable for such a constable to attend within a reasonable time.

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

(3) This section does not apply to the following forensic procedures:

(a) the taking of hand prints, finger prints, foot prints or toe prints;

(b) any non-intimate forensic procedure that may be carried out without requiring the suspect to remove any clothing except his or her overcoat, coat, jacket, gloves, socks, shoes and hat.

23XSA Presence of prison officers

If:

(a) a particular suspect is being detained in prison; and

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

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

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Subdivision E—Recording of forensic procedure

23XT Recording of forensic procedure

(1) The carrying out of a forensic procedure (other than the taking of a hand print, finger print, foot print or toe print) must be video recorded unless:
  (a) the suspect objects to the video recording; or
  (b) the video recording is not practicable.

(2) Before the forensic procedure is carried out, the suspect must be informed:
  (a) of the reasons for video recording the carrying out of the forensic procedure, including the protection that the video recording provides for the suspect; and
  (b) that the suspect may object to the video recording.

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

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

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

Subdivision F—Procedure after forensic procedure is carried out

23XU Samples—sufficient material to share

(1) This section applies if:
  (a) a sample is taken from a suspect under this Part; and
  (b) the suspect requests the investigating constable that the sample be shared; and

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(c) there is sufficient material to be analysed both in the investigation of the offence and on behalf of the suspect.

(2) The investigating constable must invite the suspect to nominate an accredited laboratory to which a part of the material sufficient for analysis will be provided on behalf of the suspect.

(3) If the suspect nominates an accredited laboratory, the investigating constable must ensure that:

(a) a part of the material sufficient for analysis is provided to that laboratory, on behalf of the suspect, within the period of 28 days beginning on the day of the nomination; and

(b) reasonable care is taken to ensure that the suspect's part of the material is protected and preserved until it is provided to that laboratory.

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

(4) The suspect must bear the costs in relation to any analysis of that part of the material provided to that laboratory.

23XUA Samples—insufficient material to share

(1) This section applies to a sample taken from a suspect under this Part if:

(a) there is not sufficient material to be analysed both in the investigation of the offence and on behalf of the suspect; and

(b) the material does not need to be analysed immediately after the sample is taken.

(2) The suspect is entitled to request the investigating constable that a person (the ***attendee***) of the suspect's choice be present while the material is analysed in the investigation of the offence.

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

(2A) The investigating constable must then inform the suspect that the attendee may be directed by the person (the ***analyst***) responsible for analysing the material to leave the premises at which the analysis is being conducted if the attendee does not comply with

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instructions given by the analyst in relation to the analysis of the material.

(3) Subject to this section, the attendee is to be present at the analysis of the material unless he or she:

(a) is unable, or does not wish, to attend; or

(b) cannot be contacted;

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

(4) The analyst may give instructions to the attendee relating to the analysis of the material.

(5) The analyst may give a direction to the attendee to leave the premises at which the analysis is being conducted if the attendee fails to comply with such an instruction.

(6) If the analyst gives such a direction, the analyst must inform the attendee that a failure to comply with the direction is an offence against subsection (7). A failure to comply with this subsection does not affect the validity of the direction.

(7) The attendee commits an offence if:

(a) the attendee is given a direction under subsection (5); and

(b) the attendee fails to comply with the direction.

Penalty: 30 penalty units.

(8) An offence against subsection (7) is an offence of strict liability.

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

23XV Photographs

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

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

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23XW Results of analysis

If:

(a) material from a sample taken from a suspect is analysed in the investigation of the offence; and

(b) before or after the analysis, the suspect has requested the investigating constable that a copy of the results of any analysis be provided to the suspect;

then the investigating constable must ensure that, within 14 days of the analysis or of the request (whichever is the later):

(c) a copy of the results of the analysis is provided to the suspect; and

(d) if the DNA profile derived from that material has been matched, as part of the investigation of the offence, under section 23YDAF with a DNA profile placed on the crime scene index in relation to the offence—the suspect is informed in writing of that match.

23XWA Preventing the carrying out of forensic procedure

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

Penalty: Imprisonment for 2 years.

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

23XWB Forensic procedures to which Division applies

Intimate forensic procedure to which Division applies

(1) This Division applies to an intimate forensic procedure that is the taking of a sample of blood (other than by a finger prick).

Non-intimate forensic procedures to which Division applies

(2) This Division applies to the following non-intimate forensic procedures:
  (a) the taking of samples of hair other than pubic hair;
  (b) the taking of fingerprints;
  (c) the taking of a sample of blood by a finger prick;
  (d) the taking of a sample of saliva, or a sample by buccal swab.

Application of Division

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

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

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

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(2) A person is authorised to take the fingerprints of a prescribed offender (other than a child or an incapable person):
  (a) with the informed consent of the prescribed offender; or
  (b) by order of a constable under section 23XWK.

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

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

A person is authorised to carry out an intimate forensic procedure to which this Division applies on a person (other than a child or incapable person) who is a serious offender:
  (a) with the informed consent of the serious offender; or
  (b) by order of a judge or magistrate under section 23XWO.

23XWE Application of Division 6

(1) Division 6 applies in relation to the carrying out under this Division of a forensic procedure on an offender. For this purpose:
  (a) references in Division 6 to the suspect are taken to be references to the offender; and
  (b) references in Subdivision F of Division 6 to the investigating constable are taken to be references to the Commissioner.

Note: By applying Division 6, sections 23XJ (about use of force in carrying out forensic procedures) and 23XK (about forensic procedures not being carried out in a cruel, inhuman or degrading manner) apply to the carrying out of a forensic procedure under this Division.

(2) A person is authorised by section 23XWC or 23XWD to carry out a forensic procedure under this Division in accordance with Division 6 as applied by this section and not otherwise.

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23XWF Scope of authorisation

(1) A person is not authorised to carry out a forensic procedure under this Division on a serious offender or a prescribed offender if the serious offender or prescribed offender is a suspect or a volunteer.

(2) A forensic procedure may be carried out on a serious offender or prescribed offender who is a suspect only if authorised by and in accordance with Divisions 2 to 5.

(3) A forensic procedure may be carried out on a serious offender or prescribed offender who is a volunteer only if authorised by and in accordance with Division 6B.

23XWG Informed consent to forensic procedures

(1) An offender gives informed consent to a forensic procedure if the offender consents after a constable:

(a) requests the offender to consent to the forensic procedure under section 23XWH; and

(b) informs the offender, in accordance with the regulations and section 23XWJ, of the matters mentioned in that section; and

(c) gives the offender the opportunity to communicate, or attempt to communicate, with a legal practitioner of the offender's choice.

(2) The constable must allow the offender to communicate, or attempt to communicate, with the legal practitioner in private unless the constable suspects on reasonable grounds that the offender might attempt to destroy or contaminate any evidence that might be obtained by carrying out the forensic procedure.

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

23XWH Constable may request offender to consent to forensic procedure

A constable may request:

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(a) a serious offender (other than a child or an incapable person) to consent to an intimate or non-intimate forensic procedure to which this Division applies being carried out on the serious offender; or

(b) a prescribed offender (other than a child or an incapable person) to consent to the taking of the offender's fingerprints.

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

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

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

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

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

(1) The constable must inform the offender of the following:

(a) the purpose for which the forensic procedure is required;

(b) if the constable wants the forensic procedure carried out in relation to an offence—the offence concerned;

(c) the way in which the forensic procedure is to be carried out;

(d) that the forensic procedure may produce evidence against the offender that might be used in a court of law;

(e) that the forensic procedure will be carried out by a person who may carry out the procedure under Division 6 as applied by section 23XWE;

Note: See section 23XM.

(f) if the forensic procedure is the taking of a sample of blood, that the offender may request that:

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(i) if the offender is serving a sentence of imprisonment in a prison or other place of detention—the prison medical officer be present while the blood is taken; or

(ii) if the offender is not serving a sentence of imprisonment—a medical practitioner of the offender's choice be present while the blood is taken;

(g) that the offender may refuse consent to the carrying out of the forensic procedure;

(h) the consequences of not consenting, as specified in subsection (2) or (3) (whichever is applicable);

(i) the effect of section 23XZ (if applicable);

(j) that information obtained from analysis of forensic material obtained may be placed on the Commonwealth DNA database system and used for the purposes of a criminal investigation or for any other purpose for which the Commonwealth DNA database system may be used under Division 8A.

Effect of failure to consent to non-intimate forensic procedure

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

Effect of failure to consent to intimate forensic procedure

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

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

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

(a) the offender has been asked under section 23XWH to consent to the carrying out of the forensic procedure; and

(b) the offender has not consented; and

(c) the constable has taken into account the matters set out in section 23XWL.

23XWL Matters to be considered by constable

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

(a) whether this Part would authorise the forensic procedure to be carried out in the absence of the order; and

(b) the seriousness of the circumstances surrounding the offence committed by the offender; and

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

23XWM Recording of giving of information and consent

(1) The constable must, if practicable, ensure that the giving of the information about the proposed forensic procedure and the offender's responses (if any) are tape recorded.

(2) If tape recording the giving of the information and the offender's responses (if any) is not practicable, the constable must ensure that:

(a) a written record of the giving of the information and the offender's responses (if any) is made; and

(b) a copy of the record is made available to the serious offender.

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

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23XWN Record of constable's order

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

(2) The constable must ensure that a copy of the record is made available to the offender as soon as practicable after the record is made.

23XWNA Circumstances in which judge or magistrate may order forensic procedure

A judge or magistrate may, under section 23XWO, order the carrying out of a forensic procedure on an offender if:
  (a) the offender is not in custody and has not consented to the forensic procedure (whether or not consent has been sought); or
  (b) the offender is in custody and has not consented to the forensic procedure (whether or not consent has been sought); or
  (c) under section 23WE, the offender cannot consent to the forensic procedure.

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

(1) An authorised applicant may apply to any judge or magistrate for an order for the carrying out of an intimate forensic procedure, or a non-intimate forensic procedure, to which this Division applies on a serious offender (other than a child or an incapable person).

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

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(3) An application under subsection (1) or (2) must be accompanied by an affidavit by the authorised applicant dealing with the matters referred to in subsection (7).

(4) An authorised applicant may apply to any judge or magistrate for an order for the taking of the fingerprints under this Division of a child or an incapable person who is a prescribed offender.

(5) An authorised applicant may make an application under this section to the judge or magistrate that is sentencing an offender or to any other judge or magistrate at a later time.

(6) A judge or magistrate may order the carrying out of a forensic procedure under this Division if satisfied that the carrying out of the forensic procedure is justified in all the circumstances.

(7) In determining whether to make an order under this section, a judge or magistrate is to take into account:
  (a) whether this Part would authorise the forensic procedure to be carried out in the absence of the order; and
  (b) the seriousness of the circumstances surrounding the commission of the offence by the offender; and
  (d) whether the carrying out of the forensic procedure is justified in all the circumstances.

(8) An order under this section takes effect immediately. However, the person who conducts any analysis of forensic material obtained as a result of carrying out the forensic procedure on an offender must not disclose the results of the analysis:
  (a) until the expiration of any appeal period or after the final determination of any appeal in relation to the offence concerned, whichever is the later; or
  (b) if the conviction is quashed.

23XWOA Securing the presence of offender at hearing—offender in custody

(1) If:

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(a) an application is made under section 23XWO to a judge or magistrate for an order under that section for the carrying out of a forensic procedure on an offender; and

(b) the offender is in custody or is otherwise detained under a law of the Commonwealth, a State or a Territory (***original custody***);

the judge or magistrate may, on the application of a constable, issue a warrant directing the person holding the offender to deliver the offender into the custody (***temporary custody***) of the constable for the hearing of the application.

(2) If the judge or magistrate refuses to make the order under section 23XWO, the constable given temporary custody of the offender must return the offender to the place of original custody without delay.

(3) If the judge or magistrate makes the order under section 23XWO, the judge or magistrate may:

(a) order the constable given temporary custody of the offender:

(i) to convey the offender to the nearest premises where facilities for carrying out the procedure in accordance with this Part are available to that constable; and

(ii) to return the offender to the place of original custody without delay after the procedure is carried out; or

(b) order the constable given temporary custody of the offender to return the offender to the place of original custody without delay.

23XWOB Securing the presence of offender at hearing—offender not in custody

(1) If:

(a) an application is made under section 23XWO to a judge or magistrate for an order for the carrying out of a forensic procedure on an offender; and

(b) the offender is neither in custody nor detained under a law of the Commonwealth, a State or a Territory;

the judge or magistrate may, on the application of a constable:

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(c) issue a summons for the appearance of the offender at the hearing of the application; or

(d) issue a warrant for the arrest of the offender for the purpose of bringing the offender before the judge or magistrate for the hearing of the application.

(2) An application for a summons under subsection (1) must be:

(a) made by information on oath or affirmation; and

(b) accompanied by an affidavit dealing with matters referred to in paragraphs (3)(a) and (b).

(3) The judge or magistrate may issue a summons only if satisfied:

(a) that the issue of the summons is necessary to ensure the appearance of the offender at the hearing of the application made under section 23XWO; or

(b) that the issue of the summons is otherwise justified.

(4) An application for a warrant under subsection (1) must be:

(a) made by information on oath or affirmation; and

(b) accompanied by an affidavit dealing with matters referred to in paragraphs (5)(a), (b) and (c).

(5) The judge or magistrate may issue a warrant only if satisfied:

(a) that the arrest is necessary to ensure the appearance of the offender at the hearing of the application made under section 23XWO, and that the issue of a summons would not ensure that appearance; or

(b) that the offender might destroy evidence that might be obtained by carrying out the forensic procedure; or

(c) that the issue of the warrant is otherwise justified.

23XWP Carrying out forensic procedure following conviction

(1) If:

(a) an offender is in prison or another place of detention; and

(b) a judge or magistrate orders the carrying out of a forensic procedure under this Division on the offender;

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

(2) In subsection (1), ***Division 6 person*** means a person who, under Division 6 as applied by section 23XWE, may carry out the forensic procedure.

(3) If a judge or magistrate orders the carrying out of a forensic procedure under this Division on an offender who is not in a prison or another place of detention, the judge or magistrate may order the offender to attend at a police station (or other place specified by the judge or magistrate) within a period specified by the judge or magistrate to allow the forensic procedure to be carried out.

(4) If a judge or magistrate orders the carrying out of a forensic procedure under this Division on an offender, the offender is guilty of an offence if the offender, without reasonable excuse, refuses or fails to permit the forensic procedure to be carried out.

Penalty: Imprisonment for 12 months.

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

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

23XWQ Carrying out of forensic procedures on volunteers

(1) In this Part:

volunteer means a person:

(a) who volunteers to a constable to undergo a forensic procedure; or

(b) in the case of a child or incapable person—whose parent or guardian volunteers on the child or incapable person's behalf to a constable that the child or incapable person undergo a forensic procedure.

(2) A person (the ***authorised person***) is authorised to carry out a forensic procedure:

(a) on a volunteer other than a child or an incapable person—with the informed consent of the volunteer given in accordance with section 23XWR; or

(b) on a volunteer who is a child or an incapable person:

(i) with the informed consent of the parent or guardian of the volunteer given in accordance with section 23XWR or by order of a magistrate under section 23XWU; and

(ia) in a case where the informed consent of the parent or guardian of the volunteer is given in accordance with section 23XWR—after the constable concerned has informed the child or incapable person that, even though consent has been given, if he or she objects to or resists the carrying out of the forensic procedure it will not be carried out; and

(ii) after the authorised person has informed the child or incapable person that, even though consent has been given or an order made, if he or she objects to or resists the carrying out of the forensic procedure it will not be carried out.

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(3) This section only authorises a person to carry out a forensic procedure if the procedure is necessary, or incidental to, the carrying out of an AFP function.

(4) This section does not authorise a person to carry out a forensic procedure on a child or an incapable person who objects to or resists the carrying out of the forensic procedure.

(5) Division 6 applies to the carrying out of a forensic procedure under this Division as if the references to a suspect in that Division were references to a volunteer referred to in this section. A person is authorised by this section to carry out a forensic procedure on a volunteer in accordance with Division 6 as so applied and not otherwise.

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

(1) A volunteer, or parent or guardian of a volunteer, gives informed consent in accordance with this section if the volunteer, parent or guardian consents in the presence of an independent person (not being a constable) after a constable informs the volunteer, parent or guardian, in accordance with the regulations, of the following matters:

(a) the way in which the forensic procedure is to be carried out;

(b) that the volunteer is under no obligation to undergo the forensic procedure;

(c) that the forensic procedure may produce evidence that might be used in a court of law;

(d) to the extent that they are relevant, the matters specified in subsection (2);

(e) that the volunteer, parent or guardian may consult a legal practitioner of the volunteer's, parent's or guardian's choice before deciding whether or not to consent to the forensic procedure;

(f) that the volunteer, parent or guardian may at any time withdraw consent to:

(i) the volunteer undergoing the forensic procedure; or

(ii) retention of the forensic material taken; or

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(iii) retention of information obtained from the analysis of that material.

(2) The constable must inform the volunteer, or parent or guardian of the volunteer, of the following:

(a) that information obtained from analysis of forensic material taken from a person under this Division, and as to the identity of the person, may be placed on the Commonwealth DNA database system;

(b) that the information will be stored on the volunteers (limited purposes) index of that system unless the volunteer (or, in the case of a volunteer who is a child or an incapable person, the parent or guardian of the volunteer) chooses for the information to be stored on the volunteers (unlimited purposes) index of that system; and

(ba) if the information is placed on the volunteers (limited purposes) index—the purpose for which the information is placed on the index and that the information may only be used for that purpose;

(c) if the information is placed on the volunteers (unlimited purposes) index—that the information may be used for the purposes of a criminal investigation or any other purpose for which the Commonwealth DNA database system may be used under Division 8A;

(d) that information placed on the Commonwealth DNA database system will be retained for such period as the Commissioner and the volunteer (or, in the case of a volunteer who is a child or an incapable person, a parent or guardian of the volunteer) agree and must then be removed from the system;

(da) if the volunteer undergoes a forensic procedure because of a request by a foreign law enforcement agency—the following:

(i) the name of the foreign law enforcement agency that has made the request;

(ii) that forensic evidence resulting from the forensic procedure will be provided to the foreign law enforcement agency;

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(iii) that the forensic evidence may be used in proceedings in the foreign country;

(iv) that the retention of the forensic evidence will be governed by the laws of the foreign country;

(v) that the retention of the forensic evidence will be subject to undertakings given by the foreign law enforcement agency;

(vi) the content of those undertakings;

(e) any other matters prescribed by the regulations.

23XWS Recording of giving of information and consent

(1) The constable must, if practicable, ensure that the giving of the information about the proposed forensic procedure and the volunteer's or volunteer's parent's or guardian's responses (if any) are tape recorded.

(2) If tape recording the giving of information and the volunteer's, parent's or guardian's responses (if any) is not practicable, the constable must ensure that:

(a) a written record of the giving of the information and the volunteer's, parent's or guardian's responses (if any) is made; and

(b) a copy of the record is made available to the volunteer, parent or guardian.

Note 1: Division 9 contains provisions about making copies of material (including copies of tapes) available to volunteers.

Note 2: If a foreign law enforcement agency requests that a forensic procedure be carried out on a volunteer, a copy of the tape recording or the written record may also be provided to the foreign law enforcement agency: see subsection 23YQD(2).

23XWT Withdrawal of consent

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

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conduct) before or during the carrying out of the forensic procedure:

(a) the forensic procedure is to be treated from the time of the withdrawal as a forensic procedure for which consent has been refused; and

(b) the forensic procedure is not to proceed except (in the case of a child or incapable person) by order of a magistrate under section 23XWU.

(2) If:

(a) a forensic procedure is carried out on a volunteer under this Division; and

(b) after the procedure is carried out, the volunteer, or the parent or guardian of the volunteer, expressly withdraws consent to retention of the forensic material taken or of information obtained from the analysis of that material;

then, subject to any order made under section 23XWV, the forensic material and any information obtained from analysis of the material is to be destroyed as soon as practicable after the consent is withdrawn.

(3) A constable may request, but cannot require, a parent or guardian who withdraws consent to the carrying out of a forensic procedure under this Division to confirm the withdrawal of consent in writing.

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

(1) A magistrate may order the carrying out of a forensic procedure on a child or incapable person if:

(a) the consent of the parent or guardian of the child or incapable person to the carrying out of the forensic procedure cannot reasonably be obtained from a parent or guardian of the child or incapable person; or

(b) the parent or guardian of the child or incapable person refuses consent to the carrying out of the forensic procedure and the magistrate is satisfied that there are reasonable grounds to believe:

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(i) that the parent or guardian is a suspect; and

(ii) that the forensic procedure is likely to produce evidence tending to confirm or disprove that he or she committed an offence; or

(c) the parent or guardian of the child or incapable person consented to the carrying out of the forensic procedure, but subsequently withdraws that consent; or

(d) in the case of a forensic procedure that has been requested by a foreign country—a constable has been authorised by the Attorney-General under the *Mutual Assistance in Criminal Matters Act 1987* to make the application for an order under this Part.

(1A) However, a magistrate is not authorised to order the carrying out of a forensic procedure on a child or incapable person if the procedure has been requested by a foreign law enforcement agency.

(2) In determining whether to make an order under this section, the magistrate is to take into account the following:

(a) whether this Part would authorise the carrying out of the forensic procedure apart from this section;

(b) if the forensic procedure is being carried out for the purposes of the investigation of a particular offence—the seriousness of the circumstances surrounding the commission of the offence;

(c) the best interests of the child or incapable person;

(d) so far as they can be ascertained, any wishes of the child or incapable person with respect to whether the forensic procedure should be carried out;

Note: A forensic procedure cannot be carried out on a child or an incapable person who objects to or resists the carrying out of the procedure even if the magistrate makes an order. See subparagraph 23XWQ(2)(b)(ii) and subsection 23XWQ(3).

(e) except in the circumstances referred to in paragraph (1)(b), any wishes expressed by the parent or guardian of the child or incapable person with respect to whether the forensic procedure should be carried out;

(f) whether the carrying out of the forensic procedure is justified in all the circumstances.

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(3) An order under this section may:

(a) require the forensic procedure to be carried out at a time, or place, or in a manner, specified in the order; or

(b) specify the period for which forensic material obtained from carrying out the procedure may be retained.

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

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

(2) Subject to subsection (2A), a magistrate may order that forensic material taken or information obtained from carrying out a forensic procedure on a volunteer who withdraws consent, or parent or guardian of a volunteer who withdraws consent, as the case may be, to the retention of the material be retained if the magistrate is satisfied that:

(a) during an investigation into the commission of a serious offence, material reasonably believed to be from the body of a person who committed the offence had been found:

(i) at the scene of the offence; or

(ii) on the victim of the offence or anything reasonably believed to have been worn or carried by the victim when the offence was committed; or

(iii) on the volunteer or anything reasonably believed to have been worn or carried by the volunteer at the scene of the offence or when the offence was committed; or

(iv) on an object or person reasonably believed to have been associated with the commission of the offence; and

(b) there are reasonable grounds to believe that information obtained from analysis of the forensic material taken from the volunteer is likely to produce evidence of probative value in relation to the serious offence being investigated; and

(c) the retention of the forensic material taken from the volunteer is justified in all the circumstances.

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(2A) Despite subsection (2), a magistrate may not make an order if:

(a) the volunteer was asked to undergo a forensic procedure because of a request by a foreign law enforcement agency; and

(b) the forensic evidence has already been provided to the foreign law enforcement agency.

(3) The order may specify the period for which the forensic material taken or information obtained from carrying out the procedure may be retained.

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Division 7—Admissibility of evidence

Subdivision A—Forensic evidence

23XX Inadmissibility of evidence from improper forensic procedures etc.

(1) This section applies where:

(a) a forensic procedure has been carried out on a person; and

(b) there has been a breach of, or failure to comply with:

(i) any provision of this Part in relation to a forensic procedure carried out on the person (including, but not limited to, any breach or failure to comply with a provision requiring things to be done at any time before or after the forensic procedure is carried out); or

(ii) any provision of Division 8A with respect to recording or use of information on the Commonwealth DNA database system.

(2) This section does not apply where:

(a) a provision of this Part required forensic material to be destroyed; and

(b) the forensic material has not been destroyed.

Note: Section 23XY applies where this Part requires forensic material to have been destroyed.

(3) This section applies to:

(a) evidence of forensic material, or evidence consisting of forensic material, taken from the person by the forensic procedure; and

(b) evidence of any results of the analysis of the forensic material; and

(c) any other evidence made or obtained as a result of or in connection with the carrying out of the forensic procedure.

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(4) Where this section applies, evidence described in subsection (3) is not admissible in any proceedings against the person in a court unless:

(a) the person does not object to the admission of the evidence; or

(b) the court is satisfied on the balance of probabilities of matters that, in the court's opinion, justify the admission of the evidence in the proceedings in spite of the failure to comply with the provisions of this Part.

(5) The matters that may be considered by the court for the purposes of paragraph (4)(b) are the following:

(a) the probative value of the evidence, including whether equivalent evidence or evidence of equivalent probative value could have been obtained by other means;

(b) the reasons given for the failure to comply with the provisions of this Part;

(c) the gravity of the failure to comply with the provisions of this Part, and whether the failure deprived the person of a significant protection under this Part;

(d) whether the failure to comply with the provisions of this Part was intentional or reckless;

(e) the nature of the provision of this Part that was not complied with;

(f) the nature of the offence concerned and the subject matter of the proceedings;

(g) whether admitting the evidence would seriously undermine the protection given to persons by this Part;

(h) any other matters the court considers to be relevant.

(6) The probative value of the evidence does not by itself justify the admission of the evidence.

(7) If a judge permits evidence to be given before a jury under subsection (4), the judge must:

(a) inform the jury of the breach of, or failure to comply with, a provision of this Part; and

(b) give the jury such warning about the evidence as the judge thinks appropriate in the circumstances.

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

(1) If a provision of this Part requires forensic material taken from a person by a forensic procedure to be destroyed, subsection (2) applies to:

(a) evidence of the forensic material; and

(b) if the material has not been destroyed—evidence consisting of the forensic material; and

(c) any results of the analysis of the forensic material; and

(d) any other evidence made or obtained as a result of or in connection with the carrying out of the forensic procedure.

(2) The results of the analysis, and the other evidence, are not admissible if adduced by the prosecution in any proceedings against the person, but may be admissible if adduced in such proceedings by the person.

Subdivision B—Other evidence

23XZ Admissibility of evidence relating to consent to forensic procedure

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

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

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

(a) to establish or rebut an allegation that unreasonable force was used to enable the procedure to be carried out; or

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(b) to determine the admissibility of a confession or admission or other evidence adverse to the person where the person alleges that the evidence was induced or obtained by the use of unreasonable force; or

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

23YB Obstructing the carrying out of forensic procedure

(1) This section applies where a constable or magistrate has ordered the carrying out of a forensic procedure on a suspect under this Part.

(2) Subject to subsections (3) and (4), evidence that the suspect:

(a) refused to comply with any reasonable direction in connection with the carrying out of the forensic procedure; or

(b) obstructed, resisted, hindered, used violence against, threatened or intimidated a person in connection with the carrying out of the forensic procedure;

is admissible in any proceedings against the suspect in respect of a relevant offence.

(3) Evidence described in subsection (2) is not admissible if the forensic procedure was in fact carried out satisfactorily.

(4) Evidence described in subsection (2) is not admissible unless it is established that the suspect:

(a) had been informed by a constable as described in subsection 23WA(4); or

(b) otherwise knew;

that the fact of refusing to comply with the direction, or obstructing, resisting, hindering, using violence against, threatening or intimidating the person, in connection with the carrying out of the forensic procedure might be used in evidence against the suspect.

(5) The court or jury may draw such inferences from the evidence described in subsection (2) as appear to the court or jury to be proper in the circumstances, having regard to any evidence given by or on behalf of the suspect.

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Subdivision C—Application

23YBA Division does not apply to a proceeding in a foreign country

To avoid doubt, this Division does not apply in relation to a proceeding in a foreign country in which forensic evidence is provided in response to a request by:

(a) a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*); or

(b) a foreign law enforcement agency.

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Division 8—Destruction of forensic material

23YBB Application

This Division does not apply to forensic evidence provided in response to a request by:

(a) a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*); or

(b) a foreign law enforcement agency.

23YC Destruction of forensic material where interim order disallowed

(1) If an interim order for the carrying out of a forensic procedure made under section 23XA is disallowed after the forensic procedure is carried out, the investigating constable must ensure that:

(a) all forensic material obtained as a result of the carrying out of the procedure is destroyed as soon as practicable after the disallowance; and

(b) a copy of the results of any analysis of the forensic material are made available to the suspect.

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

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

23YD Destruction of forensic material after 12 months

(1) This section applies where forensic material has been taken from a suspect by a forensic procedure carried out under this Part (except Divisions 6A and 6B).

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(2) If:

(a) a period of 12 months has elapsed since the forensic material was taken; and

(b) proceedings in respect of a relevant offence have not been instituted against the suspect, or have been discontinued;

the forensic material must be destroyed as soon as practicable unless a warrant for apprehension of the suspect has been issued.

(3) If:

(a) the suspect is found to have committed a relevant offence but no conviction is recorded; or

(b) the suspect is acquitted of such an offence and:

(i) no appeal is lodged against the acquittal; or

(ii) an appeal is lodged against the acquittal and the acquittal is confirmed or the appeal is withdrawn;

the forensic material must be destroyed as soon as practicable unless an investigation into, or a proceeding against the suspect for, another relevant offence is pending.

(4) If a warrant for the apprehension of the suspect is issued during the period of 12 months after forensic material is taken, the forensic material must be destroyed as soon as practicable after:

(a) the warrant lapses; or

(b) a period of 12 months elapses after the suspect is apprehended.

(5) A magistrate may, on application by a constable or the Director of Public Prosecutions, extend for a period not exceeding 12 months the period for which forensic material may be retained under this section, if the magistrate is satisfied there are special reasons for doing so.

(6) A magistrate to whom an application is made under subsection (5) is not to extend the period unless:

(a) the person from whom the forensic material was taken has been notified by the applicant for the extension that the application has been made; and

(b) the person or his or her legal representative or interview friend (if any) has been given the opportunity to speak to or

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make a submission to the magistrate concerning the extension.

(7) An extension in relation to particular forensic material may be given on more than one occasion.

(8) The magistrate is to ensure that the responsible person in relation to the Commonwealth DNA database system is notified of any extension given under this section.

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

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

23YDAB Destruction of forensic material where related evidence is inadmissible

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

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

23YDAC Definitions

(1) In this Part:

Commonwealth agency means:

(a) the Commonwealth; or

(b) an authority of the Commonwealth.

Commonwealth DNA database system means a database (whether in computerised or other form and however described) that is managed by the Commonwealth and that contains:

(a) the following indexes of DNA profiles (in so far as they relate to material taken or obtained by a Commonwealth agency and, in relation to a crime scene index, in so far as it also relates to material taken or obtained by a foreign law enforcement agency (within the meaning of the *Australian Crime Commission Act 2002*)):

(i) a crime scene index;

(ii) a missing persons index;

(iii) an unknown deceased persons index;

(iv) a serious offenders index;

(v) a volunteers (unlimited purposes) index;

(vi) a volunteers (limited purposes) index;

(vii) a suspects index;

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

(b) a statistical index (in so far as it relates to forensic material taken in accordance with this Part); and

(c) any other index prescribed by the regulations for the purposes of this definition.

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

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

(aa) at any place outside Australia where an offence under the law of a foreign country was, or is reasonably suspected of having been, committed; or

(b) on or within the body of the victim, or a person reasonably suspected of being a victim, of a prescribed offence; or

(c) on anything worn or carried by the victim at the time when a prescribed offence was, or is reasonably suspected of having been, committed; or

(d) on or within the body of any person, on any thing, or at any place, associated with the commission of a prescribed offence.

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

(a) persons who are missing; and

(b) volunteers who are relatives by blood of missing persons.

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

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

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

(a) serious offenders in accordance with Division 6A, or under a corresponding law of a participating jurisdiction; and

(b) suspects who have been convicted of a prescribed offence or an offence under a corresponding law of a participating jurisdiction.

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

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Note: See also subsection (2).

statistical index means an index of information that:

(a) is obtained from the analysis of forensic material taken from persons in accordance with this Part or under a corresponding law of a participating jurisdiction; and

(b) has been compiled for statistical purposes; and

(c) cannot be used to discover the identity of persons from whom the forensic material was taken.

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

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

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

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

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

(b) from deceased persons whose identity is known.

(2) For a participating jurisdiction, the database referred to in the definition of ***State/Territory DNA database system*** in subsection (1) may be that part of NCIDD that relates to that participating jurisdiction.

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

(1) The whole or a part of the Commonwealth DNA database system, or information obtained from the Commonwealth DNA database system, may be integrated (whether electronically or otherwise) with:

(a) the whole or a part of one or more State/Territory DNA database systems; or

(b) information obtained from one or more State/Territory DNA database systems;

to form part of NCIDD.

(2) A participating jurisdiction, or an authority of a participating jurisdiction, may access NCIDD to the extent that it consists of:

(a) the whole or a part of the State/Territory DNA database system of the participating jurisdiction; or

(b) information obtained from the State/Territory DNA database system of the participating jurisdiction;

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

(3) No part of a State/Territory DNA database system, and no information obtained from a State/Territory DNA database system, forms part of the Commonwealth DNA database system by reason only of any integration referred to in subsection (1).

(4) No part of the Commonwealth DNA database system, and no information obtained from the Commonwealth DNA database system, forms part of a State/Territory DNA database system by reason only of any integration referred to in subsection (1).

(5) The existence of the Commonwealth DNA database system or a State/Territory DNA database system is not affected by reason only of any integration referred to in subsection (1).

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23YDAD Supply of forensic material for purposes of DNA database

(1) A person is guilty of an offence if:

(a) the person engages in conduct; and

(b) the person's conduct results in the forensic material taken from any person, and which is required to be destroyed, under this Part or under a corresponding law of a participating jurisdiction, to be supplied to another person; and

(c) the person is reckless as to whether the forensic material is required to be destroyed and the supply of the material to the other person; and

(d) the person intends that the forensic material be analysed for the purpose of deriving a DNA profile for inclusion on an index of the Commonwealth DNA database system.

Penalty: Imprisonment for 2 years.

(2) A person is guilty of an offence if:

(a) the person engages in conduct; and

(b) that conduct results in the supply of forensic material to any person and the person is reckless as to that result; and

(c) the person is reckless as to whether the forensic material is not excluded forensic material; and

(d) the person intends that the forensic material be analysed for the purpose of deriving a DNA profile for inclusion on an index of the Commonwealth DNA database system.

Penalty: Imprisonment for 2 years.

(3) In this section:

excluded forensic material means forensic material:

(a) found at a crime scene; or

(b) taken from a suspect in accordance with Division 3, 4 or 5 or under a corresponding law of a participating jurisdiction; or

(c) taken from a serious offender or a volunteer in accordance with Division 6A or 6B or under a corresponding law of a participating jurisdiction; or

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(d) taken from the body of a deceased person; or
(e) that is from the body of a missing person; or
(f) taken from a volunteer who is a relative by blood of a deceased or missing person.

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

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

Penalty: Imprisonment for 2 years.

(2) A person may access information stored on the Commonwealth DNA database system or NCIDD for one or more of the following purposes:
(a) the purpose of forensic comparison permitted under section 23YDAF (permissible matching);
(b) the purpose of making the information available, in accordance with the regulations, to the person to whom the information relates;
(c) the purpose of administering the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system;
(d) the purpose of any arrangement mentioned in subsection 23YUD(1) or (1A) entered into between the Commonwealth and a State or Territory for the provision of access to information contained in the Commonwealth DNA database system or a State/Territory DNA database system by law enforcement officers or by any other persons prescribed by the regulations;
(da) the purpose of assisting a foreign country to decide whether to make a request under the *Mutual Assistance in Criminal Matters Act 1987*;
(e) the purpose of and in accordance with the *Mutual Assistance in Criminal Matters Act 1987* or the *Extradition Act 1988*;
(f) the purpose of a coronial inquest or inquiry;

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(g) the purpose of an investigation of a complaint by the Information Commissioner of the Commonwealth or of a participating jurisdiction.

(2A) A person may access information stored on NCIDD in the circumstances permitted by subsection 23YDACA(2).

(3) This section does not apply to information that cannot be used to discover the identity of any person.

23YDAF Permissible matching of DNA profiles

(1) A matching of a DNA profile on an index of the Commonwealth DNA database system specified in column 1 of the following table with a DNA profile on another index of the system specified in column 2, 3, 4, 5, 6, 7 or 8 of the table is not permitted by this Part if:

(a) "no" is shown in relation to the index specified in column 2, 3, 4, 5, 6, 7 or 8 opposite the index specified in column 1; or

(b) "only if within purpose" is shown in relation to the index specified in column 2, 3, 4, 5, 6, 7 or 8 opposite the volunteers (limited purposes) index specified in column 1 and the matching is carried out for a purpose other than a purpose for which the DNA profile placed on the volunteers (limited purposes) index specified in column 1 was so placed.

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

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

(2) A person is guilty of an offence if:

(a) the person's conduct causes the matching that is not permitted by this Part of a DNA profile on an index of the Commonwealth DNA database system with a DNA profile on the same or another index of the Commonwealth DNA database system; and

(b) the person is reckless as to any such matching of profiles.

Penalty: Imprisonment for 2 years.

(3) This section does not make it an offence for conduct to cause a matching that is not permitted by this Part if the matching is solely

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for the purposes of administering the Commonwealth DNA database system.

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

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

(1) A person is guilty of an offence if:

(a) the person's conduct causes any identifying information about a person obtained from forensic material taken from the person under this Part to be recorded or retained in the Commonwealth DNA database system at any time after this Part requires the forensic material to be destroyed; and

(b) the person is reckless as to the recording or retention or whether the forensic material is required to be destroyed.

Penalty: Imprisonment for 2 years.

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

Penalty: Imprisonment for 2 years.

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

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

Penalty: Imprisonment for 2 years.

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

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(4) In this section:

identifying information means any information that could be used:

(a) to discover the identity of the person from whose forensic material the DNA profile was derived; or

(b) to get information about an identifiable person.

identifying period for a DNA profile means the following:

(a) except as provided by paragraphs (b) and (c), the period of 12 months after the DNA profile is placed on the Commonwealth DNA database system;

(b) if the DNA profile is derived from forensic material taken from a volunteer—such period after the DNA profile is placed on the Commonwealth DNA database system as is agreed by the Commissioner and the volunteer (or, in the case of a volunteer who is a child or an incapable person, a parent or guardian of the volunteer);

(c) if the DNA profile is derived from forensic material taken from a deceased person (not being a person who was a volunteer) whose identity is known—such period as the Commissioner orders the responsible person to retain identifying information relating to the profile.

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Division 9—General provisions relating to operation of this Part

23YDA Interpreters

(1) Where:

(a) a constable proposes to take an action listed in subsection (2); and

(b) the constable believes on reasonable grounds that the suspect, offender or volunteer is unable, because of inadequate knowledge of the English language or a physical disability, to communicate orally with reasonable fluency in the English language;

the constable must, before taking the proposed action, arrange for the presence of an interpreter, and defer taking the proposed action until the interpreter is present.

(2) The actions are as follows:

(a) asking a suspect to consent to a forensic procedure (Division 3), asking an offender to consent to a forensic procedure (Division 6A) or asking a volunteer to consent to a forensic procedure (Division 6B);

(b) ordering the carrying out of a non-intimate forensic procedure on a suspect who is in custody (Division 4) or on an offender who is in custody (Division 6A);

(c) applying to a magistrate for a final order or an interim order for the carrying out of a forensic procedure on a suspect (Division 5), applying to a judge or magistrate for an order for the carrying out of a forensic procedure on an offender (Division 6A) or applying to a magistrate for an order under section 23XWU for the carrying out of a forensic procedure on a child or incapable person;

(d) cautioning a suspect, offender or volunteer (Division 6);

(e) carrying out, or arranging for the carrying out of, a forensic procedure on a suspect, offender or volunteer (Division 6);

(f) giving a suspect, offender or volunteer an opportunity to view a video recording made under this Part (section 23YF).

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23YE Powers etc. of legal representatives and interview friends

(1) A request or objection that may be made by a suspect or offender under this Part may be made on the suspect's or offender's behalf by:

(a) in any case—the suspect's or offender's legal representative; or

(b) if the suspect or offender is a child or an incapable person—an interview friend of the suspect or offender; or

(c) if the investigating constable believes on reasonable grounds that the suspect or offender is an Aboriginal person or a Torres Strait Islander—an interview friend of the suspect or offender.

(2) If:

(a) a provision of this Part requires a suspect or offender to be informed of a matter; and

(b) an interview friend or legal representative of the suspect is present when the suspect or offender is to be so informed; and

(c) the suspect or offender is so informed in a language (including in sign language or braille) in which the suspect's or offender's interview friend or legal representative is not able to communicate with reasonable fluency;

the interview friend or legal representative must also be informed of the matter in a language in which the interview friend or legal representative is able to communicate with reasonable fluency.

23YF Obligation of investigating constables relating to tape recordings

(1) If a tape recording is made as required by a provision of this Part, the investigating constable must ensure that:

(a) if an audio recording only or a video recording only is made—the recording, or a copy of it, is made available to the suspect, offender or volunteer; and

(b) if both an audio recording and a video recording are made:

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(i) the audio recording, or a copy of it, is made available to the suspect, offender or volunteer; and

(ii) the suspect, offender or volunteer is given an opportunity to view the video recording; and

(c) in any case, if a transcript of the tape recording is made—a copy of the transcript is made available to the suspect, offender or volunteer.

Note 1: If a forensic procedure is carried out as a result of a request by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*), a copy of anything made may also be provided to the foreign country: see subsections 23YQB(2) and (3).

Note 2: If a forensic procedure is carried out as a result of a request by a foreign law enforcement agency, a copy of anything made may also be provided to the foreign law enforcement agency: see subsections 23YQD(3) and (4).

(2) Where an investigating constable is required to ensure that a suspect, offender or volunteer is given an opportunity to view a video recording made under this Part, the investigating constable must ensure that the same opportunity is given to:

(a) in any case—the suspect's, offender's or volunteer's legal representative; and

(b) if the suspect, offender or volunteer is a child or an incapable person—an interview friend of the suspect, offender or volunteer; and

(c) if the investigating constable believes on reasonable grounds that the suspect, offender or volunteer is an Aboriginal person or a Torres Strait Islander—an interview friend of the suspect, offender or volunteer.

(3) If section 23YD requires forensic material taken from a suspect, offender or volunteer by a forensic procedure to be destroyed, the investigating constable must ensure that any video recording of the carrying out of the forensic procedure is also destroyed.

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

(1) Material from samples, copies, or any other material, that must be made available to a suspect, offender or volunteer under this Part:

(a) may be sent to the suspect, offender or volunteer at his or her last known address (if any), or to the suspect's, offender's or volunteer's legal representative (if any) at his or her last known address; or

(b) if there is no known address as mentioned in paragraph (a)—may be made available for collection by the suspect, offender or volunteer at the police station where the investigating constable was based at the time the forensic procedure was carried out.

(2) Subject to subsection (3), material of any kind that is required by this Part to be made available to a suspect, offender or volunteer must be made available in accordance with subsection (1):

(a) within 14 days after the material comes into existence; or

(b) if the material is requested by the suspect, offender or volunteer or the suspect's, offender's or volunteer's interview friend or legal representative, within 14 days of the request.

(3) Subsection (2) does not apply to:

(a) copies of records required to be made available under subsection 23XE(5); and

(b) material required to be provided under section 23XU; and

(c) copies of results of analysis and other information required to be provided under section 23XW.

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

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

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23YI Proof of belief or suspicion

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

23YJ Proof of impracticability

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

23YJA Proof that time should be disregarded

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

23YK Proof of voluntary waiver of certain rights

In any proceedings:

(a) the burden lies on the prosecution to prove that an Aboriginal person or Torres Strait Islander has waived a right as mentioned in subsection 23WG(3) or subsection 23XR(3); and

(b) the burden is not discharged unless the court is satisfied on the balance of probabilities that the person voluntarily waived that right, and did so with full knowledge and understanding of what he or she was doing.

23YKA Application of sections 23YI to 23YK

To avoid doubt, sections 23YI to 23YK do not apply in relation to a proceeding in a foreign country in which forensic evidence is provided in response to a request by:

(a) a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*); or

(b) a foreign law enforcement agency.

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23YL Liability for forensic procedures

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

(a) informed consent had been given to the carrying out of the forensic procedure; or

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

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

23YM Experts not obliged to carry out forensic procedures

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

23YN Retention of electronic recordings

(1) A tape recording made by a constable in accordance with this Part that is no longer required for investigative or evidentiary purposes may be retained for such other purposes, and for such period, as the Commissioner directs.

(2) A recording that is retained under this section is to be stored so as to protect it against unauthorised access or use by any person.

23YO Disclosure of information

(1) A person is guilty of an offence if:

(a) the person has access to any information stored on the Commonwealth DNA database system or NCIDD or to any other information revealed by a forensic procedure carried out on a suspect, offender or volunteer; and

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(b) the person's conduct causes the disclosure of information other than as provided by this section; and

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

Penalty: Imprisonment for 2 years.

(1A) Paragraph (1)(a) does not apply to access to information stored on NCIDD in the circumstances permitted by subsection 23YDACA(2).

(2) A person may only disclose information stored on the Commonwealth DNA database system or NCIDD for one or more of the following purposes:

(a) the purposes of forensic comparison in the course of a criminal investigation by a constable or other person prescribed by the regulations;

(b) the purposes of making the information available, in accordance with the regulations, to the person to whom the information relates;

(c) the purposes of administering the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system;

(d) the purposes of any arrangement mentioned in subsection 23YUD(1) or (1A) entered into between the Commonwealth and a State or Territory for the provision of access to information contained in the Commonwealth DNA database system or a State/Territory DNA database system by law enforcement officers or by any other persons prescribed by the regulations;

(da) the purposes of assisting a foreign country to decide whether to make a request under the *Mutual Assistance in Criminal Matters Act 1987*;

(e) the purposes of, and in accordance with, the *Mutual Assistance in Criminal Matters Act 1987* or the *Extradition Act 1988*;

(f) the purpose of a coronial inquest or inquiry;

(g) the purposes of an investigation by the Information Commissioner or the Ombudsman of the Commonwealth or of a participating jurisdiction.

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(3) A person may only disclose information revealed by the carrying out of a forensic procedure as follows:

(a) if the person is the suspect, offender or volunteer to whom the information relates;

(b) if the information is already publicly available;

(c) in accordance with any other provision of this Part;

(d) in accordance with the *Mutual Assistance in Criminal Matters Act 1987* or the *Extradition Act 1988*;

(e) for the purposes of the investigation of any offence or offences generally;

(f) for the purpose of a decision whether to institute proceedings for any offence;

(g) for the purpose of proceedings for any offence;

(h) for the purpose of a coronial inquest or inquiry;

(i) for the purpose of civil proceedings (including disciplinary proceedings) that relate to the way in which the procedure is carried out;

(ia) for the purpose of dealing with or investigating, under Part V or the *Australian Federal Police Act 1979*, an AFP conduct or practices issue (within the meaning of that Act) that relates to the way in which the procedure is carried out;

(j) for the purposes of the suspect's, offender's or volunteer's medical treatment;

(k) for the purpose of the medical treatment of the victim of an offence that there are reasonable grounds to believe was committed by the suspect;

(l) if the suspect, offender or volunteer consents in writing to the disclosure.

(4) This section does not apply to information that cannot be used to discover the identity of any person.

23YP Taking, retention and use of forensic material

Taking, retention and use authorised by laws of other jurisdictions

(1) Nothing in this Part affects the taking, retention or use of forensic material, or information obtained from forensic material, if the

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taking, retention or use of the material is authorised by or under a law of a State or a Territory.

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

Use and retention of forensic material taken before commencement of subsection

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

23YPA Analysis of forensic material

The analysis for the Commonwealth of forensic material obtained as a result of the carrying out of a forensic procedure under this Part must be carried out in an accredited laboratory.

23YQ Commissioner may delegate functions and powers

(1) The Commissioner of the Australian Federal Police may delegate all or any of his or her functions and powers under this Part to a constable or AFP appointee.

(2) In subsection (1), ***AFP appointee*** has the meaning it has in the *Australian Federal Police Act 1979.*

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Division 9A—Carrying out forensic procedures at the request of a foreign jurisdiction

Subdivision A—Requests by foreign countries

23YQA Application of Subdivision

This Subdivision applies if:

(a) a request is made by a foreign country that a forensic procedure be carried out on a person; and

(b) the Attorney-General authorises, under the *Mutual Assistance in Criminal Matters Act 1987*, a constable to apply to a magistrate for the carrying out of the forensic procedure on the person.

Note: Under the *Mutual Assistance in Criminal Matters Act 1987*, the Attorney-General may only authorise a constable who is an authorised applicant.

23YQB Providing forensic evidence resulting from a forensic procedure

(1) If a forensic procedure is carried out on a person, the forensic evidence resulting from the procedure is to be provided to the foreign country concerned in accordance with a direction given by the Attorney-General under section 28C of the *Mutual Assistance in Criminal Matters Act 1987*.

(2) If an audio recording, a copy of it, or a copy of a transcript of a tape recording is made available to a person (as required by subsection 23YF(1)), a copy of the audio recording or the transcript, or both, as the case may be, may also be provided to the foreign country concerned, but only in accordance with a direction given by the Attorney-General under section 28C of the *Mutual Assistance in Criminal Matters Act 1987*.

(3) If:

(a) a video recording or a copy of it is made available to a person (as required by subsection 23YF(1)); or

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(b) both an audio recording and a video recording are made and the person is given an opportunity to view the video recording (as required by subsection 23YF(1));

a copy of the video recording may also be provided to the foreign country concerned, but only in accordance with a direction given by the Attorney-General under section 28C of the *Mutual Assistance in Criminal Matters Act 1987*.

Subdivision B—Requests by a foreign law enforcement agency

23YQC Application of Subdivision

This Subdivision applies if a request is made by a foreign law enforcement agency that a forensic procedure be carried out on:

(a) a suspect in relation to a foreign serious offence who has given informed consent to the forensic procedure; or

(b) a volunteer.

23YQD Providing forensic material etc. to a foreign law enforcement agency

(1) The Commissioner may provide forensic evidence to a foreign law enforcement agency if the Commissioner is satisfied that:

(a) the foreign law enforcement agency has given appropriate undertakings in relation to the retention, use and destruction of the forensic evidence; and

(b) it is appropriate, in all the circumstances of the case, to do so.

(2) If forensic evidence is to be provided to the foreign law enforcement agency, a copy of the tape recording or the written record mentioned in section 23WL (suspects) or 23XWS (volunteers) may also be provided to the foreign law enforcement agency.

(3) If an audio recording, a copy of it, or a copy of a transcript of a tape recording is made available to a suspect or volunteer (as required by subsection 23YF(1)), a copy of the audio recording or the transcript, or both, as the case may be, may also be provided to the foreign law enforcement agency.

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(4) If:

(a) a video recording or a copy of it is made available to a suspect or volunteer (as required by subsection 23YF(1)); or

(b) both an audio recording and a video recording are made and the suspect or volunteer is given an opportunity to view the video recording (as required by subsection 23YF(1));

a copy of the video recording may also be provided to the foreign law enforcement agency.

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

23YQE Part does not apply to persons under 10

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

23YR Relationship with Part IAA

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

(a) from a suspect who is under 18 years of age or is incapable of managing his or her affairs, if the suspect has been arrested and charged as mentioned in section 3ZJ; or

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

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

23YS Relationship with Part IC

(1) Nothing in this Part is intended to limit the rights and protections provided by Part IC to the extent that the provisions of that Part can operate in circumstances covered by this Part.

(2) The rights and protections conferred by this Part are in addition to those conferred by Part IC but, to the extent (if any) that compliance with this Part results in compliance with Part IC, the requirements of Part IC are satisfied.

23YU Application of other laws

(1) This Part is not intended to limit or exclude the operation of another law of the Commonwealth or of a law of a State or Territory relating to:

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(a) the carrying out of forensic procedures, including procedures not referred to in this Part; or

(aa) without limiting paragraph (a), the carrying out of breath analysis or a breath test or the production of samples of blood and urine to determine the level of alcohol or drugs, if any, present in a person's body; or

(b) the taking of forensic samples, including samples not referred to in this Part; or

(c) the taking of identification evidence; or

(d) the carrying out of searches of the person; or

(e) the retention or use of forensic material or information obtained as a result of activities described in paragraphs (a), (b), (c) and (d).

(2) To avoid any doubt, it is declared that even though another law of the Commonwealth provides power to do one or more of the things referred to in subsection (1), a similar power conferred by this Part may be used despite the existence of the power under the other law.

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Division 11—Interjurisdictional enforcement

23YUA Definitions

In this Part:

appropriate authority means:

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

(b) in relation to the Australian Capital Territory—the Commissioner and any other authority prescribed by the regulations.

corresponding law means a law that:

(a) relates to the carrying out of forensic procedures and DNA databases; and

(b) either:

(i) substantially corresponds to this Part; or

(ii) is prescribed by the regulations for the purposes of this definition.

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

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

23YUB Registration of orders

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

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(1A) The orders mentioned in subsection (1) do not include an order for the carrying out of a forensic procedure on a person that is made under this Part in response to a request by a foreign country (as contemplated by the *Mutual Assistance in Criminal Matters Act 1987*).

(2) An order is registered when a copy of the order (being a copy certified by the person who made it) is registered in accordance with the law of the participating jurisdiction in which the register is kept.

(3) An application for registration of an order, or for cancellation of registration of an order, may be made by an appropriate authority.

23YUC Carrying out of registered orders

(1) A person is authorised to carry out an intimate forensic procedure authorised by an order under this Part that is registered in accordance with an arrangement referred to in subsection 23YUB(1) anywhere in the Commonwealth. The person is authorised to carry out the procedure in accordance with Division 6 and not otherwise.

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

(2) A constable, or other person assisting a constable in accordance with this Part or a corresponding law of a participating jurisdiction, is not compelled by this Part, or an arrangement referred to in subsection 23YUB(1), to execute an order registered under such an arrangement.

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23YUD Database information

(1) The Minister may, on behalf of the Commonwealth, enter into arrangements with a responsible Minister of a participating jurisdiction under which:

(a) information from the Commonwealth DNA database system is to be transmitted to the appropriate authority in the participating jurisdiction; and

(b) information from the State/Territory DNA database system of the participating jurisdiction is to be transmitted to the Commissioner.

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

(1A) CrimTrac may, on behalf of the Commonwealth, enter into an arrangement with a participating jurisdiction in relation to:

(a) transmission of information to or from the Commonwealth DNA database system, or any State/Territory DNA database system; or

(b) keeping, and otherwise managing, such information; or

(c) subject to subsection (1B), using such information.

(1AA) Subject to subsection (1B), an arrangement with a participating jurisdiction under subsection (1A) may deal with:

(a) CrimTrac comparing information transmitted in accordance with that arrangement with other information on NCIDD; and

(b) CrimTrac identifying matches that are found because of such comparisons and CrimTrac transmitting information arising from such matches to that participating jurisdiction.

(1AB) Subsection (1AA) does not limit subsection (1A).

(1B) Information that is transmitted under this section must not be used except for the purpose of:

(a) the investigation of a matter relating to the participating jurisdiction, or proceedings in respect of that matter; or

(b) the investigation of a matter relating to the Commonwealth, or proceedings in respect of that matter.

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(2) Information that is transmitted under this section must not be recorded, or maintained in any database of information that may be used to discover the identity of a person or to obtain information about an identifiable person at any time after this Part or a corresponding law of a participating jurisdiction requires the forensic material to which it relates to be destroyed.

(3) In this section:

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

investigation of a matter means:

(a) in relation to a participating jurisdiction:

(i) an investigation of an offence against the law of that jurisdiction; or

(ii) an investigation of a missing person; or

(iii) an investigation for the purpose of identifying a deceased person; or

(b) in relation to the Commonwealth:

(i) an investigation of an offence against the law of the Commonwealth; or

(ii) an investigation of a missing person; or

(iii) an investigation for the purpose of identifying a deceased person.

23YUDA Arrangements with prisons or other places of detention

The Commissioner may, on behalf of the Commonwealth, enter into an arrangement with the head (however described) of a prison or other place of detention in a State or Territory in relation to the carrying out of forensic procedures under this Part on offenders who are serving sentences of imprisonment in that prison or other place of detention.

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

23YUE Definitions

In this Division:

incident includes a series of incidents.

permitted purpose means either or both of the following:

(a) the purpose of identifying an unidentified person who died in or as a result of an incident in relation to which this Division applies;

(b) the purpose of conducting a criminal investigation in relation to such an incident.

23YUF Application of this Division

(1) This Division applies in relation to the following incidents:

(a) the bombings that occurred in Bali, Indonesia on 12 October 2002 (local time);

(b) any incident that the Minister, by legislative instrument, determines to be an incident in relation to which this Division applies.

(2) Before making a determination under paragraph (1)(b), the Minister must be satisfied that:

(a) if the determination would relate to an incident occurring wholly outside Australia and Norfolk Island—one or more Australian citizens or Australian residents have died in or as a result of the incident; and

(b) it is appropriate in the circumstances for this Division to apply in relation to the incident.

(2A) The Minister must not make a determination under paragraph (1)(b) relating to an incident occurring wholly within Australia or Norfolk Island unless:

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(a) the Minister suspects on reasonable grounds that the incident involves the commission of:
  (i) an offence against a law of the Commonwealth; or
  (ii) a State offence that has a federal aspect; or
  (iii) an offence against a law of a Territory; or
(b) the Minister suspects on reasonable grounds that victims of the incident are persons of a kind with respect to whom the Commonwealth Parliament has power to make laws; or
(c) the Minister is satisfied that the incident is or has created a national emergency.

(2B) Without limiting paragraph (2A)(b), the reference in that paragraph to persons of a kind with respect to whom the Commonwealth Parliament has power to make laws includes references to the following:
(a) aliens;
(b) persons receiving pensions, benefits or allowances from the Commonwealth;
(c) members of the Australian Defence Force;
(d) persons employed by, or holding an office in, the Commonwealth;
(e) residents of a Territory.

23YUG Use of information on DNA database systems

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

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

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(b) the forensic comparison is for a permitted purpose.

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

23YUH Permissible matching of DNA profiles

(1) Despite section 23YDAF, a person may match a DNA profile on the unknown deceased persons index of the Commonwealth DNA database system with another DNA profile on that index if the matching is for a permitted purpose.

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

23YUI Disclosure of information

(1) Despite section 23YO, or any law of a State or Territory relating to forensic procedures and DNA databases, a person may disclose information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system if:

(a) the disclosure is to:

(i) any law enforcement agency (within the meaning of the *Australian Crime Commission Act 2002*); or

(ii) a foreign law enforcement agency (within the meaning of that Act); or

(iii) the International Criminal Police Organisation; or

(iv) any other agency or body of the Commonwealth, a State or a Territory, or of a foreign country, prescribed by the regulations; and

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(b) the information is relevant to the activities of that agency or body; and

(c) the disclosure is for a permitted purpose.

(2) Despite section 23YO, or any law of a State or Territory relating to forensic procedures and DNA databases, a person may disclose information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system if:

(a) the information concerns the result of a match of an unknown deceased person's DNA profile with a missing person's DNA profile; and

(b) the disclosure is made to a relative, guardian, spouse, de facto partner or friend of the deceased person.

23YUJ This Division does not restrict operation of this Part

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

(a) access information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system; or

(b) match a DNA profile on an index of the Commonwealth DNA database system or a State/Territory DNA database system; or

(c) disclose information stored on the Commonwealth DNA database system, NCIDD or a State/Territory DNA database system;

under this Part.

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

23YUK Review of operation of this Division

(1) The Minister must cause an independent review of the operation of this Division to be undertaken as soon as possible after the first anniversary of the commencement of item 1 of Schedule 1 to the *Crimes Amendment Act 2002* referred to in subsection 2(1) of that Act.

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(2) A person who undertakes the review must give the Minister a written report of the review.

(3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

(4) In this section:

independent review means a review undertaken by persons who:

(a) in the Minister's opinion, possess appropriate qualifications to undertake the review; and

(b) include a nominee of the Attorney-General, a nominee of the Commissioner of the Australian Federal Police, a nominee of the Director of Public Prosecutions, a nominee of the Ombudsman and a person nominated by the Information Commissioner in the performance of the privacy functions (within the meaning of the *Australian Information Commissioner Act 2010*).

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Division 11B—Concurrent operation of State and Territory laws

23YUL Concurrent operation of State and Territory laws

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

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

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

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

Division 1—Things this Part applies to

23ZA Application

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

(a) child abuse material; or

(b) child pornography material; or

(c) any of the following that contains child abuse material or child pornography material:

(i) a computer;

(ii) a data storage device;

(iii) another piece of electronic equipment.

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

23ZB Forfeiture of material by operation of law

Application

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

Power to give forfeiture notice

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

Content of forfeiture notice

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

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(i) a person who owns the thing (either alone or with other persons);

(ii) a person who has a right to possess the thing; and

(d) explains the circumstances in which, under section 23ZC, a person may be given a copy of parts of the thing, or of data contained in the thing, on request to the head of the police force made within 30 days after the notice is given; and

(e) explains the effect of forfeiture of the thing; and

(f) explains the circumstances in which compensation is payable in connection with forfeiture of the thing; and

(g) requests a person claiming compensation for forfeiture of the thing to notify the head of the police force of the claim.

Giving copy of forfeiture notice to others affected

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

Effect of giving forfeiture notice

(5) If there is not an objection described in paragraph (3)(c), the forfeitable thing is forfeited to the Commonwealth (by force of this subsection) at the end of the period described in that paragraph.

(6) If there is an objection described in paragraph (3)(c) but the head of the police force that includes the constable considers that the forfeitable thing should be forfeited to the Commonwealth despite the objection:

(a) the head of the police force must instruct the Director of Public Prosecutions to apply for an order under section 23ZD for the forfeiture of the thing; and

(b) the Director must make the application.

Objection or lack of one does not affect prosecution

(7) Evidence of the fact that a person described in paragraph (3)(c) objected or did not object as described in that paragraph is not

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admissible against the person in a prosecution of the person for a Commonwealth child sex offence.

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

(1) This section applies if:

(a) the forfeitable thing is identified in a forfeiture notice given by a constable; and

(b) less than 30 days after the notice is given, a person who was given the notice or who would be directly or indirectly affected by the proposed forfeiture of the thing gives a written request to the head of the police force that includes the constable; and

(c) the request is for the person to be given a copy of parts of the thing, or of data contained in the thing, that:

(i) are specified in the request clearly enough to enable the parts or data to be identified readily; and

(ii) are not child abuse material or child pornography material.

(2) The head of the police force must comply with the request if he or she is satisfied that it is reasonably practicable to do so.

(3) However, the head of the police force need not comply with the request if he or she reasonably believes:

(a) that to do so might endanger the safety of anyone or prejudice an investigation or prosecution; or

(b) that possession by the person of the copy could constitute an offence against a law of the Commonwealth, a State or a Territory.

(4) If:

(a) the head of the police force complies with the request; and

(b) a court convicts the person of a Commonwealth child sex offence and is satisfied on the balance of probabilities that the forfeitable thing is derived from, or was used in connection with, the commission of the offence;

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the court may order the person to pay the Commonwealth, State or Territory whose police force incurred costs in complying with the request those costs.

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Division 3—Forfeiture by court order on application

23ZD Forfeiture of material by court order on application

Court to order forfeiture on application if offence committed

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

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

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

Notice of application

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

Interim orders

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

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Circumstances that do not prevent court ordering forfeiture

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

Court may order compensation for forfeiture

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

Standard of proof for forfeiture and compensation orders

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

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Division 4—Provisions relating to forfeiture under this Part generally

23ZE Effect of forfeiture under this Part

(1) This section applies if a thing is forfeited to the Commonwealth under this Part.

(2) When the thing is forfeited it becomes the property of the Commonwealth.

(3) A constable may, without warrant, seize the thing.

(4) The Commissioner may deal with the thing in any way he or she considers appropriate (including by destroying the thing).

(5) However, if the thing is in the custody of a constable who is a member of a police force of a State or Territory, the head of the police force may deal with the thing in any way he or she considers appropriate (including by destroying the thing).

(6) Subsections (3), (4) and (5) have effect despite section 9.

23ZF Compensation for forfeiture of electronic equipment etc.

(1) This section applies to a person if:
  (a) a thing that is a computer, data storage device or other electronic equipment is forfeited under this Part; and
  (b) the person owned, had a right to possess or had other property in the thing immediately before the forfeiture.

(2) The Commonwealth is liable to pay the person a reasonable amount of compensation for the forfeiture.

(3) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction of a State or Territory for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

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(4) However, the court is not to determine an amount of compensation for the person while:

(a) the person is the subject of an investigation into a Commonwealth child sex offence of which the thing provides evidence; or

(b) the person is the subject of proceedings (other than those under subsection (3)) relating to a Commonwealth child sex offence from which the thing was allegedly derived or in connection with which the thing was allegedly used; or

(c) an appeal may be lodged as of right in relation to proceedings covered by paragraph (b).

(5) Subsection (2) does not apply if the person is or has been convicted of, or found by a court in civil proceedings (including proceedings under subsection (3)) to have committed, a Commonwealth child sex offence to which the forfeiture relates.

23ZG Delegation by head of police force

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

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Part II—Offences against the Government

24AA Treachery

(1) A person shall not:

(a) do any act or thing with intent:

(i) to overthrow the Constitution of the Commonwealth by revolution or sabotage; or

(ii) to overthrow by force or violence the established government of the Commonwealth, of a State or of a proclaimed country; or

(b) within the Commonwealth or a Territory not forming part of the Commonwealth:

(i) levy war, or do any act preparatory to levying war, against a proclaimed country;

(ii) assist by any means whatever, with intent to assist, a proclaimed enemy of a proclaimed country; or

(iii) instigate a person to make an armed invasion of a proclaimed country.

(2) Where a part of the Defence Force is on, or is proceeding to, service outside the Commonwealth and the Territories not forming part of the Commonwealth, a person shall not assist by any means whatever, with intent to assist, any persons:

(a) against whom that part of the Defence Force, or a force that includes that part of the Defence Force is or is likely to be opposed; and

(b) who are specified, or included in a class of persons specified, by proclamation to be persons in respect of whom, or a class of persons in respect of which, this subsection applies.

(3) A person who contravenes a provision of this section shall be guilty of an indictable offence, called treachery.

Penalty: Imprisonment for life.

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(4) In this section:

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

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

(a) of and at war with a proclaimed country, whether or not the existence of a state of war has been declared; and

(b) specified by proclamation made for the purpose of this definition to be an enemy of and at war with that country.

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

24AB Sabotage

(1) In this section:

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

(a) that is used, or intended to be used, by the Defence Force or a part of the Defence Force or is used, or intended to be used, in the Commonwealth or a Territory not forming part of the Commonwealth, by the armed forces of a country that is a proclaimed country for the purposes of section 24AA;

(b) that is used, or intended to be used, in or in connexion with the manufacture, investigation or testing of weapons or apparatus of war;

(c) that is used, or intended to be used, for any purpose that relates directly to the defence of the Commonwealth; or

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(d) that is in or forms part of a place that is a prohibited place within the meaning of section 80.

article includes any thing, substance or material.

(2) A person who:

(a) carries out an act of sabotage; or

(b) has in his or her possession any article that is capable of use, and which he or she intends for use, in carrying out an act of sabotage;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 15 years.

(3) On a prosecution under this section it is not necessary to show that the accused person was guilty of a particular act tending to show an intention to prejudice the safety or defence of the Commonwealth and, notwithstanding that such an act is not proved against him or her, he or she may be convicted if, from the circumstances of the case, from his or her conduct or from his or her known character as proved, it appears that his or her intention was to prejudice the safety or defence of the Commonwealth.

(4) On a prosecution under this section, evidence is not admissible by virtue of subsection (3) if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that that evidence:

(a) would not tend to show that the defendant intended to prejudice the safety or defence of the Commonwealth; or

(b) would, having regard to all the circumstances of the case and notwithstanding subsection (5), prejudice the fair trial of the defendant.

(5) If evidence referred to in subsection (4) is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the defendant intended to prejudice the safety or defence of the Commonwealth and must be disregarded by the jury in relation to any other question.

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24AC Institution of prosecutions

(1) Proceedings for the commitment for trial of a person, or for the summary conviction of a person, in respect of an offence against section 24AA or 24AB shall not be instituted except by the Attorney-General or with the consent of the Attorney-General or of a person thereto authorized in writing by the Attorney-General.

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

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

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

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

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

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

24F Certain acts done in good faith not unlawful

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

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

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

(c) to excite in good faith another person to attempt to procure by lawful means the alteration of any matter established by

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law in the Commonwealth, a State, a Territory or another country;

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

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

(2) For the purpose of subsection (1), an act or thing done:

(a) for a purpose intended to be prejudicial to the safety or defence of the Commonwealth;

(b) with intent to assist an enemy:

(i) at war with the Commonwealth; and

(ii) specified by proclamation made for the purpose of paragraph 80.1AA(1)(b) of the *Criminal Code* to be an enemy at war with the Commonwealth;

(ba) with intent to assist:

(i) another country; or

(ii) an organisation (within the meaning of section 100.1 of the *Criminal Code*);

that is engaged in armed hostilities against the Australian Defence Force;

(c) with intent to assist a proclaimed enemy, as defined by subsection 24AA(4) of this Act, of a proclaimed country as so defined;

(d) with intent to assist persons specified in paragraphs 24AA(2)(a) and (b) of this Act; or

(e) with the intention of causing violence or creating public disorder or a public disturbance;

is not an act or thing done in good faith.

25 Inciting mutiny

(1) Any person who intentionally attempts:

(a) to seduce any person serving in the Queen's Forces from his or her duty and allegiance; or

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(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.

(3) In subsection (2):

British possession means any part of the Sovereign's dominions exclusive of the United Kingdom, and where parts of such dominions are under both a central and a local legislature all parts under the central legislature are, for the purposes of this definition, taken to be one British possession.

26 Assisting prisoners of war to escape

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

Penalty: Imprisonment for life.

27 Unlawful drilling

(1) Any person who:

(a) in contravention of the directions of a proclamation by the Governor-General in that behalf, trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions; or

(b) is present at any meeting or assembly of persons, held in contravention of the directions of a proclamation by the Governor-General, for the purpose of there training or

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drilling any other person to the use of arms or the practice of military exercises, movements, or evolutions;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

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

Penalty: Imprisonment for 2 years.

28 Interfering with political liberty

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

Penalty: Imprisonment for 3 years.

29 Destroying or damaging Commonwealth property

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

Penalty: Imprisonment for 10 years.

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

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

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Part IIA—Protection of public and other services

30J Industrial disturbances, lock-outs and strikes

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

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

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

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

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

(3) For the purposes of this section:

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

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

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

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

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

30K Obstructing or hindering the performance of services

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

(b) compels or induces any person employed in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth to surrender or depart from his or her employment;

(c) prevents any person from offering or accepting employment in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth;

(d) obstructs or hinders the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States;

(e) compels or induces any person employed in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States to surrender or depart from his or her employment; or

(f) prevents any person from offering or accepting employment in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States;

shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

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Part III—Offences relating to the administration of justice

Division 1—Preliminary

31 Judicial proceeding and tribunal definitions

In this Act:

federal judicial proceeding means:

(a) a judicial proceeding in or before:
  (i) a federal court; or
  (ii) a court exercising federal jurisdiction; or
  (iii) a court of a Territory; or
(b) a judicial proceeding before a body or person acting under a law of:
  (i) the Commonwealth; or
  (ii) a Territory.

judicial proceeding means (other than in section 3L):

(a) a proceeding in or before a court; or
(b) a proceeding:
  (i) before a body, or a person, acting under a law of the Commonwealth, of a State or of a Territory; and
  (ii) in which evidence may be taken on oath.

judicial tribunal means a body or person (other than a court) before whom a judicial proceeding is conducted.

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Division 2—Judges and magistrates

34 Judge or magistrate acting oppressively or when interested

Excessive and unreasonable bail

(1) A person commits an offence if:
  (a) the person is a judge or magistrate; and
  (b) the judge or magistrate is required or authorised by law to admit a person accused of an offence to bail; and
  (c) the judge or magistrate requires excessive and unreasonable bail; and
  (d) the requirement is an abuse of the judge's or magistrate's office; and
  (e) the offence referred to in paragraph (b) is an offence against a law of the Commonwealth.

Penalty: Imprisonment for 2 years.

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

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

(3) Absolute liability applies to the paragraph (1)(e) element of the offence.

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

Acting when interested

(4) A person commits an offence if:
  (a) the person is a judge or magistrate; and
  (b) the judge or magistrate perversely exercises jurisdiction in a matter; and
  (c) the judge or magistrate has a personal interest in the matter; and
  (d) the jurisdiction is federal jurisdiction.

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Penalty: Imprisonment for 2 years.

(5) Absolute liability applies to the paragraph (4)(d) element of the offence.

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

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Division 3—Evidence and witnesses

35 Giving false testimony

(1) A person commits an offence if:

(a) the person gives false testimony touching a matter; and

(b) the person does so:

(i) in a judicial proceeding; or

(ii) with the intention of instituting a judicial proceeding; and

(c) the matter is material in the judicial proceeding; and

(d) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 5 years.

(2) Strict liability applies to the paragraph (1)(c) element of the offence.

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

(3) Absolute liability applies to the paragraph (1)(d) element of the offence.

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

(4) For the purposes of this section, it is immaterial:

(a) whether the testimony is given:

(i) on oath or not on oath; or

(ii) orally or in writing; or

(b) whether the court or judicial tribunal to which the testimony is given:

(i) is properly constituted; or

(ii) is held in the proper place; or

(c) whether the person who gave the testimony is a competent witness; or

(d) whether the testimony is admissible.

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36 Fabricating evidence

(1) A person commits an offence if:

(a) the person:

(i) fabricates evidence; or

(ii) makes use of fabricated evidence; and

(b) the person does so with the intention of misleading a court or judicial tribunal in a judicial proceeding; and

(c) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

36A Intimidation of witnesses etc.

(1) A person (the ***first person***) commits an offence if:

(a) the first person:

(i) threatens, intimidates or restrains another person; or

(ii) uses violence to, or inflicts an injury on, another person; or

(iii) causes or procures violence, damage, loss or disadvantage to another person; or

(iv) causes or procures the punishment of another person; and

(b) the first person does so on account of the other person having appeared, or being about to appear, as a witness in a judicial proceeding; and

(c) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

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37 Corruption of witnesses

Agreements or understandings

(1) A person (the ***first person***) commits an offence if:

(a) the first person:

(i) gives, confers or procures any property, or benefit, of any kind to, upon or for another person; or

(ii) promises or offers to give, to confer, to procure or to attempt to procure any property, or benefit, of any kind to, upon or for another person; or

(iii) asks for, receives or obtains any property, or benefit, of any kind for himself or herself or another person; or

(iv) agrees to receive or to obtain any property, or benefit, of any kind for himself or herself or another person; and

(b) the first person does so upon an agreement or understanding that any person called, or to be called, as a witness in a judicial proceeding will:

(i) give false testimony; or

(ii) withhold true testimony; and

(c) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

Inducing false testimony

(3) A person commits an offence if:

(a) the person does an act; and

(b) the person does so with the intention of inducing a person called, or to be called, as a witness in a judicial proceeding:

(i) to give false testimony; or

(ii) to withhold true testimony; and

(c) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 5 years.

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(4) Absolute liability applies to the paragraph (3)(c) element of the offence.

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

38 Deceiving witnesses

(1) A person (the ***first person***) commits an offence if:

(a) the first person:

(i) practises any fraud or deceit to a person called, or to be called, as a witness in a judicial proceeding; or

(ii) makes or exhibits any false statement, representation, token or writing to a person called, or to be called, as a witness in a judicial proceeding; and

(b) the first person does so with the intention of affecting the testimony of the other person; and

(c) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 2 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

39 Destroying evidence

(1) A person commits an offence if:

(a) the person knows that a book, document or thing of any kind is, or may be, required in evidence in a judicial proceeding; and

(b) the person:

(i) destroys the book, document or thing; or

(ii) renders the book, document or thing illegible, undecipherable or incapable of identification; and

(c) the person does so with the intention of preventing the book, document or thing from being used in evidence; and

(d) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 5 years.

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(2) Absolute liability applies to the paragraph (1)(d) element of the offence.

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

40 Preventing witnesses from attending Court

(1) A person (the ***first person***) commits an offence if:

(a) another person has been subpoenaed or summoned to attend as a witness in a judicial proceeding; and

(b) the first person prevents the other person from attending as a witness, or from producing anything in evidence, pursuant to the subpoena or summons; and

(c) the judicial proceeding is a federal judicial proceeding.

Penalty: Imprisonment for 1 year.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

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Division 4—Perverting the course of justice

41 Conspiracy to bring false accusation

(1) A person commits an offence if:

(a) the person conspires with another person:

(i) to charge any person falsely with an offence; or

(ii) to cause any person to be falsely charged with an offence; and

(b) the offence referred to in paragraph (a) is an offence against a law of:

(i) the Commonwealth; or

(ii) a Territory.

Penalty: Imprisonment for 10 years.

(1A) Absolute liability applies to the paragraph (1)(b) element of the offence.

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

(2) For a person to be guilty of an offence against subsection (1):

(a) the person must have entered into an agreement with one or more other persons; and

(b) the person and at least one other party to the agreement must have intended that a person be charged falsely with an offence pursuant to the agreement; and

(c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.

(3) A person may be found guilty of an offence against subsection (1) even if:

(a) charging a person falsely pursuant to the agreement is impossible; or

(b) the only other party to the agreement is a body corporate; or

(c) each other party to the agreement is a person who is not criminally responsible; or

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(d) subject to subsection (4), all other parties to the agreement have been acquitted of the offence.

(4) A person cannot be found guilty of an offence against subsection (1) if:
(a) all other parties to the agreement have been acquitted of such an offence; and
(b) a finding of guilt would be inconsistent with their acquittal.

(5) A person cannot be found guilty of an offence against subsection (1) if, before the commission of an overt act pursuant to the agreement, the person:
(a) withdrew from the agreement; and
(b) took all reasonable steps to prevent the false charging.

(6) A court may dismiss a charge of an offence against subsection (1) if the court thinks that the interests of justice require the court to do so.

(7) Section 11.1 of the *Criminal Code* does not apply to an offence against subsection (1).

42 Conspiracy to defeat justice

(1) A person commits an offence if:
(a) the person conspires with another person to obstruct, to prevent, to pervert or to defeat the course of justice in relation to a judicial power; and
(b) the judicial power is the judicial power of the Commonwealth.

Penalty: Imprisonment for 10 years.

(2) Absolute liability applies to the paragraph (1)(b) element of the offence.

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

(3) For a person to be guilty of an offence against subsection (1):
(a) the person must have entered into an agreement with one or more other persons; and

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(b) the person and at least one other party to the agreement must have intended to obstruct, prevent, pervert or defeat the course of justice pursuant to the agreement; and

(c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.

(4) A person may be found guilty of an offence against subsection (1) even if:

(a) obstructing, preventing, perverting or defeating the course of justice pursuant to the agreement is impossible; or

(b) the only other party to the agreement is a body corporate; or

(c) each other party to the agreement is a person who is not criminally responsible; or

(d) subject to subsection (5), all other parties to the agreement have been acquitted of the offence.

(5) A person cannot be found guilty of an offence against subsection (1) if:

(a) all other parties to the agreement have been acquitted of such an offence; and

(b) a finding of guilt would be inconsistent with their acquittal.

(6) A person cannot be found guilty of an offence against subsection (1) if, before the commission of an overt act pursuant to the agreement, the person:

(a) withdrew from the agreement; and

(b) took all reasonable steps to prevent the obstruction, prevention, perversion or defeat.

(7) A court may dismiss a charge of an offence against subsection (1) if the court thinks that the interests of justice require the court to do so.

(8) Section 11.1 of the *Criminal Code* does not apply to an offence against subsection (1).

43 Attempting to pervert justice

(1) A person commits an offence if:

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(a) the person attempts to obstruct, to prevent, to pervert or to defeat the course of justice in relation to a judicial power; and
(b) the judicial power is the judicial power of the Commonwealth.

Penalty: Imprisonment for 10 years.

(2) Absolute liability applies to the paragraph (1)(b) element of the offence.

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

(3) For the person to be guilty of an offence against subsection (1), the person's conduct must be more than merely preparatory to the commission of the offence. The question whether conduct is more than merely preparatory to the commission of the offence is one of fact.

(4) A person may be found guilty of an offence against subsection (1) even if doing the thing attempted is impossible.

44 Compounding offences

(1) A person (the ***first person***) commits an offence if:
(a) the first person:
(i) asks for, receives or obtains any property, or benefit, of any kind for himself or herself or another person; or
(ii) agrees to receive or to obtain any property, or benefit, of any kind for himself or herself or another person; and
(b) the first person does so upon an agreement or understanding that the first person will:
(i) compound or conceal an offence; or
(ii) abstain from, discontinue or delay a prosecution for an offence; or
(iii) withhold evidence of an offence; and
(c) the offence referred to in paragraph (b) is an indictable offence against a law of:
(i) the Commonwealth; or
(ii) a Territory.

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Penalty: Imprisonment for 3 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

45 Inserting advertisements without authority of court

(1) A person commits an offence if:

(a) the person inserts in the *Gazette*, or in a newspaper, an advertisement purporting to be published under the authority of a court; and

(b) the person does so:

(i) without authority; or

(ii) knowing the advertisement to be false in any material particular; and

(c) the advertisement purports to be published under the authority of:

(i) a federal court; or

(ii) a court exercising federal jurisdiction; or

(iii) a court of a Territory.

Penalty: Imprisonment for 2 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

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Division 5—Escape from criminal detention

45A Criminal detention definitions

In this Act:

criminal detention: a person is in ***criminal detention*** if the person:

(a) is arrested in respect of an offence; or

(b) is in custody in respect of an offence; or

(c) is detained because:

(i) the person is unfit to be tried in respect of an offence; or

(ii) the person has been acquitted of an offence because of mental illness at the time of the offence; or

(iii) the person has been convicted of an offence and a court has ordered that the person be detained for the purposes of receiving treatment for a mental illness that contributed to the commission of the offence.

Example: Paragraph (c) includes detention under:

(a) Division 6 of Part IB (unfitness to be tried); or

(b) Division 7 of Part IB or section 20BS (mental illness).

federal criminal detention means criminal detention in respect of an offence against a law of:

(a) the Commonwealth; or

(b) a Territory (other than the Australian Capital Territory).

46 Aiding prisoner to escape

(1) A person (the ***first person***) commits an offence if:

(a) another person (the ***prisoner***) is in criminal detention; and

(b) the first person aids the prisoner:

(i) to escape from that detention; or

(ii) to attempt to escape from that detention; and

(c) the prisoner escapes, or attempts to escape, from that detention; and

(d) the detention is lawful federal criminal detention.

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Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(d) element of the offence.

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

(3) Subsection (1) does not apply if, before the escape or attempted escape, the first person:

(a) terminates his or her aid to the prisoner; and

(b) takes all reasonable steps to prevent the escape or attempted escape.

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

(4) The first person may be found guilty of the offence even if the prisoner has not been prosecuted for, or has not been found guilty of, an offence in relation to the escape or attempted escape.

46A Aiding prisoner to escape—conveying thing into prison etc.

(1) A person (the ***first person***) commits an offence if:

(a) another person (the ***prisoner***) is in criminal detention; and

(b) the first person conveys a thing into a prison, lock-up or other place of criminal detention; and

(c) the first person does so with the intention of facilitating the escape of the prisoner from the prison, lock-up or other place; and

(d) the detention is lawful federal criminal detention.

Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(d) element of the offence.

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

47 Escaping

(1) A person commits an offence if:

(a) the person is in criminal detention; and

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(b) the person escapes from that detention; and
(c) the detention is lawful federal criminal detention.

Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

47A Rescuing a prisoner from criminal detention

(1) A person (the ***first person***) commits an offence if:
(a) another person (the ***prisoner***) is in criminal detention; and
(b) the first person rescues the prisoner from that detention by force; and
(c) the detention is lawful federal criminal detention.

Penalty: Imprisonment for 14 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

47B Person unlawfully at large

(1) A person commits an offence if:
(a) the person was in criminal detention in a prison, lock-up or other place of criminal detention; and
(b) the detention was lawful federal criminal detention; and
(c) in accordance with a permission given under a law of a State or Territory (other than the Australian Capital Territory), the person leaves the prison, lock-up or other place; and
(d) the person refuses, or fails, to return to the prison, lock-up or other place in accordance with that permission.

Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(b) element of the offence.

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

(3) Paragraph (1)(d) does not apply if the person has a reasonable excuse.

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

47C Permitting escape

(1) A person (the ***first person***) commits an offence if:

(a) the first person is:

(i) an officer of a prison, lock-up or other place of criminal detention; or

(ii) a constable; or

(iii) a Commonwealth officer; and

(b) the first person is charged for the time being with the criminal detention of another person (the ***prisoner***); and

(c) the first person intentionally or negligently permits the prisoner to escape from the detention; and

(d) the detention is lawful federal criminal detention.

Penalty: Imprisonment for 5 years.

(2) Absolute liability applies to the paragraph (1)(d) element of the offence.

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

48 Harbouring etc. an escapee

(1) A person (the ***first person***) commits an offence if:

(a) the first person knows that another person (the ***escapee***) has escaped from a place where the other person was held in criminal detention; and

(b) the first person harbours, maintains or employs the escapee; and

(c) the detention was lawful federal criminal detention.

Penalty: Imprisonment for 5 years.

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(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

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

48A Sentence ceases to run while escaped prisoner at large

(1) A person who commits an offence against section 47 or 47B shall, upon being returned to lawful custody, undergo, in addition to any punishment imposed for that offence, the punishment that the person would have undergone if the person had not escaped.

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

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Division 6—Seized property

49 Removing property under seizure

(1) A person commits an offence if:

(a) property has been attached, or taken, under the process or authority of a court; and

(b) the court was:

(i) a federal court; or

(ii) exercising federal jurisdiction; or

(iii) a court of a Territory; and

(c) the person receives, removes, retains, conceals or disposes of the property; and

(d) the person does so with the intention of hindering or defeating the attachment or process.

Penalty: Imprisonment for 2 years.

(2) Absolute liability applies to the paragraph (1)(b) element of the offence.

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

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Part IV—Piracy

51 Interpretation

In this Part:

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

(a) if the act is done on the high seas or in the coastal sea of Australia—against another ship or aircraft or against persons or property on board another ship or aircraft; or

(b) if the act is done in a place beyond the jurisdiction of any country—against a ship, aircraft, persons or property.

Australia includes the External Territories.

coastal sea of Australia means:

(a) the territorial sea of Australia; and

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

and includes airspace over those seas.

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

offence against this Part includes:

(a) an offence against section 6 that relates to an offence against a provision of this Part; and

(b) an offence against a provision of this Part that is taken to have been committed because of section 11.2 or 11.2A of the *Criminal Code*; and

(c) an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code* that relates to an offence against a provision of this Part.

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

(a) have used, are using or intend to use the ship or aircraft in the commission of acts of piracy; or

(b) have seized control of the ship or aircraft by an act of piracy.

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

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

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

52 Piracy

A person must not perform an act of piracy.

Penalty: Imprisonment for life.

53 Operating a pirate-controlled ship or aircraft

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

Penalty: Imprisonment for 15 years.

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

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54 Seizure of pirate ships and aircraft etc.

(1) A member of the Defence Force or a member of the Australian Federal Police may seize:

(a) a ship or aircraft that he or she reasonably believes to be a pirate-controlled ship or aircraft; or

(b) a thing on board such a ship or aircraft, being a thing that appears to be connected with the commission of an offence against this Part.

(2) A seizure may be effected:

(a) in Australia; or

(b) on the high seas; or

(c) in a place beyond the jurisdiction of any country.

(3) The Supreme Court of a State or Territory may:

(a) on the application by the custodian of, or a person with an interest in, a ship, aircraft or thing seized under this section, order that the ship, aircraft or thing be returned to its lawful owner; or

(b) on its own motion, or on application:

(i) if:

(A) a person has been convicted of an offence against this Part; and

(B) the ship, aircraft or thing was used in, or was otherwise involved in the commission of, the offence;

order that the ship, aircraft or thing be forfeited to the Commonwealth; or

(ii) make any order relating to the seizure, detention or disposal of the ship, aircraft or thing.

(4) An order to return a ship, aircraft or thing may be made subject to conditions, including conditions as to the payment to the Commonwealth of reasonable costs of seizure and detention and conditions as to the giving of security for payment of its value should it be forfeited.

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55 Written consent of Attorney-General required

(1) A prosecution for an offence against this Part requires the consent of the Attorney-General.

(2) Despite subsection (1):

(a) a person may be arrested for an offence referred to in subsection (1), and a warrant for such an arrest may be issued and executed; and

(b) a person may be charged with such an offence; and

(c) a person so charged may be remanded in custody or on bail;

but no further step in the proceedings referred to in subsection (1) is to be taken until the Attorney-General's consent has been given.

(3) Nothing in subsection (2) prevents the discharge of the accused if proceedings are not continued within a reasonable time.

56 Evidence of certain matters

(1) A certificate by the Foreign Affairs Minister, or by an eligible person authorised by that Minister to make such a certificate, stating that:

(a) specified waters were, at a specified time:

(i) part of the high seas; or

(ii) within the coastal sea of Australia; or

(b) a specified place was, at a specified time, a place beyond the jurisdiction of any country;

is, for the purposes of any proceedings for an offence against this Part, evidence of the facts stated in the certificate.

(2) In this section:

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

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Part VI—Offences by and against public officers

70 Disclosure of information by Commonwealth officers

(1) A person who, being a Commonwealth officer, publishes or communicates, except to some person to whom he or she is authorized to publish or communicate it, any fact or document which comes to his or her knowledge, or into his or her possession, by virtue of being a Commonwealth officer, and which it is his or her duty not to disclose, shall be guilty of an offence.

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

Penalty: Imprisonment for 2 years.

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Part VII—Official secrets and unlawful soundings

77 Interpretation

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

article includes any thing, substance or material.

cipher includes:

(a) a code or cryptogram;

(b) a system, method, device or machine whereby a cipher, code or cryptogram may be created; and

(c) a code word, password or identification signal.

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

(a) an opinion; and

(b) a report of a conversation.

model includes design, pattern and specimen.

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

sketch includes a representation of a place or thing.

the Commonwealth includes the Territories.

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

(a) expressions referring to obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining include obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining in whole or in part, and whether the thing or information itself, or only the substance, effect or description of the thing or information, is obtained, collected, recorded, used, possessed, communicated, received or retained;

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(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 the Part to a sketch, plan, photograph, model, cipher, note, document or article or to information shall be read as including a reference to a copy of, a part of or a copy of a part of a sketch, plan, photograph, model, cipher, note, document or article or information.

(4) For the purposes of this Part, a place that is occupied by, or a thing that is under the control of, the Commonwealth shall be deemed to belong to the Commonwealth.

(5) This Part applies to and in relation to a sketch, plan, photograph, model, cipher, note, document or article by whomsoever it is made and whatsoever information it contains.

79 Official secrets

(1) For the purposes of this section, a sketch, plan, photograph, model, cipher, note, document, or article is a prescribed sketch, plan, photograph, model, cipher, note, document or article in relation to a person, and information is prescribed information in relation to a person, if the person has it in his or her possession or control and:

(a) it has been made or obtained in contravention of this Part or in contravention of section 91.1 of the *Criminal Code*;

(b) it has been entrusted to the person by a Commonwealth officer or a person holding office under the Queen or he or she has made or obtained it owing to his or her position as a person:

(i) who is or has been a Commonwealth officer;

(ii) who holds or has held office under the Queen;

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(iii) who holds or has held a contract made on behalf of the Queen or the Commonwealth;

(iv) who is or has been employed by or under a person to whom a preceding subparagraph applies; or

(v) acting with the permission of a Minister;

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

(c) it relates to a prohibited place or anything in a prohibited place and:

(i) he or she knows; or

(ii) by reason of its nature or the circumstances under which it came into his or her possession or control or for any other reason, he or she ought to know;

that it should not be communicated to a person not authorized to receive it.

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

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

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

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

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

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

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

he or she shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

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

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

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

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

Penalty: Imprisonment for 2 years.

(4) If a person:

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

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

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

he or she shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

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

Penalty: Imprisonment for 7 years.

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

Penalty: Imprisonment for 2 years.

(7) On a prosecution under subsection (2) it is not necessary to show that the accused person was guilty of a particular act tending to show an intention to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions and, notwithstanding that such an act is not proved against him or her, he or she may be convicted if, from the circumstances of the case, from his or her conduct or from his or her known character as proved, it appears that his or her intention was to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions.

(8) On a prosecution under this section, evidence is not admissible by virtue of subsection (7) if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that that evidence, if admitted:

(a) would not tend to show that the defendant intended to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions; or

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(b) would, having regard to all the circumstances of the case and notwithstanding subsection (9), prejudice the fair trial of the defendant.

(9) If evidence referred to in subsection (8) is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the defendant intended to prejudice the security or defence of the Commonwealth or a part of the Queen's dominions and must be disregarded by the jury in relation to any other question.

(10) A person charged with an offence against subsection (2) may be found guilty of an offence against subsection (3) or (4) and a person charged with an offence against subsection (5) may be found guilty of an offence against subsection (6).

80 Prohibited places

The following places shall be prohibited places:

(a) any work of defence, arsenal, factory, dockyard, aerodrome, camp, ship, aircraft, telegraph or signal station, or office, belonging to the Queen or the Commonwealth, and any other place belonging to the Queen or the Commonwealth used for the purpose of building, repairing, making, obtaining or storing any ship, aircraft, arms, or materials or instruments for use in time of war, or any plans or documents relating thereto;

(aa) any camp, barracks or place where prisoners of war, internees or members of the Defence Force are detained;

(b) any place not belonging to the Queen or the Commonwealth where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans of 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

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thereto, would be useful to an enemy or to a foreign power; and

(d) any railway, road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith), or any place used for gas, water, electricity works or other works for purposes of a public character, or any place where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, obtained, tested or stored otherwise than on behalf of the Queen or the Commonwealth, which is for the time being declared by the Governor-General by proclamation to be a prohibited place for the purposes of this Part, on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy or to a foreign power.

83 Unlawful soundings

(1) Any person who in the Commonwealth or in any Territory:

(a) takes any unlawful soundings;

(b) makes any record of any unlawful soundings;

(c) intentionally has in possession any record of unlawful soundings;

(d) communicates to any person outside the Commonwealth or any Territory any record of or information concerning unlawful soundings; or

(e) communicates to any other person any record of or information concerning unlawful soundings with intent that the record or information may be communicated to any person outside the Commonwealth or any Territory;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 2 years.

(2) For the purposes of this section all soundings taken in the territorial waters of the Commonwealth or any Territory shall be deemed to be unlawful unless they were made under the authority of the

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Queen, the Commonwealth Government, or a State Government, or the Government of a Territory, or were reasonably necessary for the navigation of the vessel from which they were taken or for any purpose in which the vessel from which they were taken was lawfully engaged.

(3) In any prosecution under this section, proof that any soundings were not unlawfully taken shall lie upon the defendant.

(4) Any figure or word or sign representing a figure (other than the printed figures appearing on any official or recognized map or chart) appearing on any map or sketch of any portion of the coast or territorial waters of Australia or of a Territory shall, in the absence of satisfactory proof to the contrary, be deemed to be a record of an unlawful sounding, but nothing in this subsection shall affect proof of unlawful soundings in any other manner.

(5) All records of unlawful soundings including all maps or charts having thereon any record of unlawful soundings shall be forfeited to the Commonwealth.

(6) A reference in this section to soundings shall be read as including a reference to a hydrographic survey and a reference to the taking of soundings shall be read as including a reference to the making of a hydrographic survey.

85 Institution of prosecution

(1) A prosecution under this Part shall be instituted only by or with the consent of the Attorney-General or of a person acting under his or her direction but a person charged with an offence against this Part may be arrested, or a warrant for his or her arrest may be issued and executed, and he or she may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General or a person acting under his or her direction has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

(2) Nothing in this section shall prevent the discharging of the accused if proceedings are not continued within a reasonable time.

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85B Hearing in camera etc.

(1) At any time before or during the hearing before a federal court, a court exercising federal jurisdiction or a court of a Territory of an application or other proceedings, whether in pursuance of this Act or otherwise, the judge or magistrate, or other person presiding or competent to preside over the proceedings, may, if satisfied that such a course is expedient in the interest of the defence of the Commonwealth:

(a) order that some or all of the members of the public shall be excluded during the whole or a part of the hearing of the application or proceedings;

(b) order that no report of the whole or a specified part of or relating to the application or proceedings shall be published; or

(c) make such order and give such directions as he or she thinks necessary for ensuring that no person, without the approval of the court, has access, either before, during or after the hearing of the application or the proceedings, to any affidavit, exhibit, information or other document used in the application or the proceedings that is on the file in the court or in the records of the court.

(2) A person who contravenes or fails to comply with an order made or direction given in pursuance of this section shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

85D Forfeiture of articles etc.

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

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Part VIIA—Offences relating to postal services

85E Interpretation—definitions

In this Part, unless the contrary intention appears:

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

Australia Post means the Australian Postal Corporation.

carried by post means carried by or through Australia Post.

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

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

postal message means:

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

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

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85F Interpretation—expressions used in Australian Postal Corporation Act

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

85G Forgery of postage stamps etc.

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

Penalty: Imprisonment for 10 years.

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

Penalty: Imprisonment for 10 years.

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

Penalty: Imprisonment for 5 years.

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

Penalty: Imprisonment for 5 years.

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

Penalty: Imprisonment for 5 years.

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

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

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

(a) tenders it or puts it off; or

(c) uses or deals with it; or

(e) attempts to induce any person to use, deal with, act on or accept it.

85H Special paper for postage stamps

(1) A person shall not:

(a) intentionally make, use, have in his or her possession, or sell or otherwise dispose of, paper:

(i) supplied for, or used by, Australia Post for the purpose of printing postage stamps; or

(ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, Australia Post for that purpose;

(b) intentionally make, use, have in his or her possession, or sell or otherwise dispose of, paper:

(i) supplied for, or used by, a person other than Australia Post for the purpose of printing postage stamps for Australia Post; or

(ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, a person other than Australia Post for that purpose; or

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

Penalty: Imprisonment for 5 years.

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

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

85N Wrongful delivery of postal article etc.

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

Penalty: Imprisonment for 1 year.

85Q Forgery of postal messages etc.

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

Penalty: Imprisonment for 10 years.

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

Penalty: Imprisonment for 10 years.

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

(a) tenders it or puts it off; or

(c) uses or deals with it; or

(e) attempts to induce any person to use, deal with, act on or accept it.

85R Wrongful delivery of postal messages

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

Penalty: Imprisonment for 1 year.

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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) intentionally submit, or cause to be submitted, to Australia Post a postal message signed with the name of a fictitious person;

(c) intentionally and without the authority of the person sending a postal message, alter the postal message; or

(d) intentionally write, issue or deliver a document purporting to be a postal message that has been carried by post knowing that it is not such a message.

Penalty: Imprisonment for 1 year.

85U Obstructing carriage of articles by post

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

Penalty: Imprisonment for 2 years.

85V Interference with property of Australia Post

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

Penalty: Imprisonment for 1 year.

(1A) For the purposes of an offence against subsection (1), absolute liability applies to whichever one of the following physical elements of circumstance is relevant to the offence:

(a) that the post-box, or stamp vending machine, is erected by Australia Post;

(b) that the property belongs to Australia Post.

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

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

Penalty: 30 penalty units.

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

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

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

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

Penalty: Imprisonment for 2 years.

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

Exceptions—supply of pharmaceutical products etc. to remote locations

(3) Subsection (1) does not apply in relation to conduct engaged in by a person if the person engages in the conduct:

(a) for the purposes of, and in accordance with, the Medical Chest Program; and

(b) in the course of duties, powers or functions performed or exercised by the person in the person's capacity as:

(i) Australia Post or an employee of Australia Post; or

(ii) the Royal Flying Doctor Service of Australia or an RFDSA employee or contractor.

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

(3A) Subsection (1) does not apply in relation to conduct engaged in by a person if the person engages in the conduct:

(a) for the purposes of, and in accordance with, a program, prescribed by the regulations, for the supply of packages of pharmaceutical products and medical supplies to remote locations; and

(b) in the course of duties, powers or functions performed or exercised by the person in the person's capacity as:

(i) Australia Post or an employee of Australia Post; or

(ii) a body, or the holder of an office or position, if the body, office or position is prescribed by the regulations in relation to the program; or

(iii) an employee of, or a person who performs services for or on behalf of, a government, body or other person, if the government, body or other person is prescribed by the regulations in relation to the program.

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

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

(4) In this section:

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

(a) for the supply of packages of pharmaceutical products and medical supplies to remote locations across Australia; and

(b) administered and operated by or on behalf of the Royal Flying Doctor Service of Australia.

RFDSA employee or contractor means any of the following:

(a) an employee of the Royal Flying Doctor Service of Australia;

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(b) any other person (an ***RFDSA contractor***) that performs services for or on behalf of the Royal Flying Doctor Service of Australia;

(c) a person who is employed by, or that performs services for or on behalf of, an RFDSA contractor.

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

(a) the Australian Council of the Royal Flying Doctor Service of Australia;

(b) the Royal Flying Doctor Service of Australia Central Operations Incorporated;

(c) the Royal Flying Doctor Service of Australia (Queensland Section);

(d) the Royal Flying Doctor Service of Australia (South Eastern Section);

(e) the Royal Flying Doctor Service of Australia (Tasmanian Section);

(f) the Royal Flying Doctor Service of Australia (Victorian Section);

(g) the Royal Flying Doctor Service of Australia (Western Operations).

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

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

85ZA Postage stamps to be valuable securities etc.

A postage stamp, and any document issued by Australia Post in relation to the carriage by post of money or a direction to pay an

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amount of money, shall be taken to be a valuable security for the purposes of any law relating to larceny.

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Part VIIC—Pardons, quashed convictions and spent convictions

Division 1—Interpretation and application of Part

85ZL Interpretation of Part

In this Part, unless the contrary intention appears:

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

Commonwealth authority means:

(a) a Commonwealth Minister;

(b) a Commonwealth Department;

(ba) the Defence Force;

(c) a body (whether incorporated or not), or a tribunal, established or appointed for a public purpose by or under a Commonwealth law, not being:

(i) an incorporated company, society or association; or

(ii) an organisation registered, or an association recognised, under the *Fair Work (Registered Organisations) Act 2009*, or a branch of such an organisation or association;

(d) a body established or appointed by the Governor-General, or by a Commonwealth Minister, otherwise than by or under a Commonwealth law;

(e) a person holding or performing the duties of an office established by or under, or an appointment made under, a Commonwealth law other than the office of Secretary of a Commonwealth Department;

(f) a person holding or performing the duties of an appointment made by the Governor-General, or by a Commonwealth Minister, otherwise than under a Commonwealth law;

(g) a federal court;

(h) the Supreme Court of the Australian Capital Territory; or

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(j) the Australian Federal Police.

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

Commonwealth law means:

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

Commonwealth Minister means a Minister of State of the Commonwealth.

Commonwealth offence means an offence against a Commonwealth law.

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

designated offence means:

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

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

foreign law means a law of a foreign country.

foreign offence means an offence against a foreign law.

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intelligence or security agency means:

(a) the Australian Security Intelligence Organisation; or

(b) the Australian Secret Intelligence Service; or

(c) the Office of National Assessments; or

(d) that part of the Defence Department known as the Australian Signals Directorate; or

(e) that part of the Defence Department known as the Defence Intelligence Organisation; or

(f) that part of the Defence Department known as the Australian Geospatial-Intelligence Organisation.

law enforcement agency means:

(a) the Australian Federal Police;

(b) the police force of a State or Territory;

(ba) Customs;

(bb) the Australian Commission for Law Enforcement Integrity;

(c) the ACC;

(e) the CrimTrac Agency;

(f) the Independent Commission Against Corruption established under the Independent Commission Against Corruption Act, 1988 of the State of New South Wales, or a similar body established under a law of another State;

(g) the New South Wales Crime Commission established under the New South Wales Crime Commission Act 1985 of New South Wales, or a similar body established under a law of another State;

(h) the Office of the Director of Public Prosecutions, or a similar body established under a State law;

(j) a Director of Public Prosecutions, or a person performing a similar function, appointed under a law of a State;

(k) staff appointed to assist a Director or person referred to in paragraph (j); or

(m) officers or members of the Attorney-General's Department of a State or a similar State Department, or of a body administered by such a Department, being officers or members whose primary function is the institution or conduct of proceedings for State offences.

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

Privacy Act means the *Privacy Act 1988*.

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

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

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

State includes the Australian Capital Territory and the Northern Territory.

State authority means:

(a) a State Minister;

(b) a State Department;

(c) a body (whether incorporated or not), or a tribunal, established or appointed for a public purpose by or under a State law, not being:

(i) an incorporated company, society or association;

(ii) an association of employers or employees that is registered or recognised under a State law dealing with the conciliation and arbitration of industrial disputes; or

(iii) the body corporate constituted under subsection 6(1) of the *Legal Practitioners Ordinance 1970* of the Australian Capital Territory or a similar body constituted under a law of another State;

(d) a body established or appointed by a Governor of a State, or by a State Minister, or by the Australian Capital Territory Executive or the Administrator of the Northern Territory otherwise than by or under a State law;

(e) a person holding or performing the duties of an office established by or under, or an appointment made under, a State law, other than the office of head of a State Department (however described);

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(f) a person holding or performing the duties of an appointment, being an appointment made by a Governor of a State or by a State Minister, or by the Australian Capital Territory Executive or the Administrator of the Northern Territory otherwise than under a State law;
(g) a State court; or
(h) a State police force.

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

State offence means an offence against a State law.

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

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

Territory offence means an offence against a Territory law.

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

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

(1) For the purposes of this Part, a person shall be taken to have been convicted of an offence if:
(a) the person has been convicted, whether summarily or on indictment, of the offence;
(b) the person has been charged with, and found guilty of, the offence but discharged without conviction; or
(c) the person has not been found guilty of the offence, but a court has taken it into account in passing sentence on the person for another offence.

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(2) For the purposes of this Part, a person's conviction of an offence is spent if:

(a) the person has been granted a pardon for a reason other than that the person was wrongly convicted of the offence; or

(b) the person was not sentenced to imprisonment for the offence, or was not sentenced to imprisonment for the offence for more than 30 months, and the waiting period for the offence has ended.

85ZN Meaning of *quash*

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

(a) where the person was convicted of the offence—if the conviction has been quashed or set aside;

(b) where the person was found guilty of the offence, but discharged without conviction—if the finding of guilt has been quashed or set aside; or

(c) where the person was not found guilty of the offence, but a court has taken it into account in passing sentence on the person for another offence:

(i) if the person's conviction of the other offence has been quashed or set aside; or

(ii) if the court's decision to take the offence into account has been set aside.

85ZP Application of Part

(1) This Part applies in relation to a person convicted of an offence whether the person was convicted before or after the commencement of this Part.

(2) A reference in this Part to a person convicted of an offence does not include a reference to a body corporate.

(3) Nothing in this Part authorises a person or body to disclose or take into account a conviction of an offence if to do so would contravene any Commonwealth law, State law, Territory law or foreign law.

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

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

85ZQ Part binds the Crown

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

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

85ZR Pardons for persons wrongly convicted

(1) Despite any other Commonwealth law or any State law or Territory law, where a person has been granted a free and absolute pardon for a Commonwealth offence or a Territory offence because the person was wrongly convicted of the offence:

(a) the person shall be taken, in any State or Territory, for all purposes, never to have been convicted of the offence; and

(b) the person shall be taken, in a foreign country, by any Commonwealth authority or State authority in that country, for all purposes, never to have been convicted of the offence.

(2) Despite any other Commonwealth law or any Territory law, where, under a State law or a foreign law a person is, in particular circumstances or for a particular purpose, to be taken never to have been convicted of an offence under a law of that State or foreign country:

(a) the person shall be taken, in any Territory, in corresponding circumstances or for a corresponding purpose, never to have been convicted of that offence; and

(b) the person shall be taken, in any State or foreign country, in corresponding circumstances or for a corresponding purpose, by any Commonwealth authority in that State or country, never to have been convicted of that offence.

85ZS Effect of pardons for persons wrongly convicted

(1) Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, where, under section 85ZR, a person is, in particular circumstances or for a particular purpose, to be taken never to have been convicted of an offence:

(a) the person is not required, in those circumstances or for that purpose, to disclose the fact that the person was charged with, or convicted of, the offence;

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(b) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence;

(c) in the case of a Commonwealth offence or a Territory offence—the person is not otherwise subject to any legal duty or disability to which he or she would not have been subject if he or she had not been convicted; and

(d) anyone else who knows, or could reasonably be expected to know, that section 85ZR applies to the person in relation to the offence shall not:

(i) without the person's consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first-mentioned person not to disclose it to that other person or that authority; or

(ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

(2) Subsection (1) does not affect the generality of section 85ZR.

85ZT Quashed convictions

(1) Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, where a person's conviction of a Commonwealth offence or a Territory offence has been quashed, the person is not required:

(a) in any State or Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in a foreign country—to disclose to any Commonwealth authority or State authority in that country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

(2) Subject to Division 6, but despite any other Commonwealth law or any Territory law, where a person's conviction of a State offence or a foreign offence has been quashed, the person is not required:

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(a) in any Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in any State or foreign country—to disclose to any Commonwealth authority in that State or country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

85ZU Effect of quashed convictions

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

(a) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence; and

(b) anyone else who knows, or could reasonably be expected to know, that section 85ZT applies to the person in relation to the offence shall not:

(i) without the person's consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first-mentioned person not to disclose it to that other person or that authority; or

(ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

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Division 3—Spent convictions

85ZV Spent convictions

(1) Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, if a person's conviction of a Commonwealth offence or a Territory offence is spent, the person is not required:

(a) in any State or Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in a foreign country—to disclose to any Commonwealth authority or State authority in that country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

(2) Subject to Division 6, but despite any other Commonwealth law or any Territory law, if a person's conviction of a State offence or a foreign offence is spent, the person is not required:

(a) in any Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in any State or foreign country—to disclose to any Commonwealth authority in that State or country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

(3) Subject to Division 6, but despite any other Commonwealth law or any Territory law, where:

(a) a person was convicted of a State offence;

(b) subsection (2) does not apply to the person in relation to the offence; and

(c) under a law in force in that State, being a law dealing with the disclosure or taking into account of spent convictions (however described in that law) it is lawful for the person, in particular circumstances or for a particular purpose, not to disclose the fact that the person was charged with, or convicted of, the offence;

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

(d) in a Territory—to disclose the fact that the person was charged with, or convicted of, the offence; or

(e) in a State or foreign country—to disclose that fact to any Commonwealth authority in that State or country.

85ZW Effect of right of non-disclosure

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

(a) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence; and

(b) anyone else who knows, or could reasonably be expected to know, that section 85ZV applies to the person in relation to the offence shall not:

(i) without the person's consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first-mentioned person not to disclose it to that other person or that authority; or

(ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

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Division 4—Convictions of further offences

85ZX Convictions of further Commonwealth or Territory offences

(1) Where:

(a) Division 3 applies to a person in relation to an offence of which the person was convicted, or would (unless an order is made under this section) so apply to the person if the waiting period for the offence had ended; and

(b) before or after the end of the waiting period for the offence, the person is convicted summarily, by a court exercising federal jurisdiction or a court of a Territory, of another offence, being an offence committed during that waiting period;

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

(2) Where:

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

(b) before or after the end of the waiting period for the offence, the person is convicted on indictment, by a court exercising federal jurisdiction or a court of a Territory, of another offence, being an offence committed during that waiting period;

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

85ZY Convictions of further State or foreign offences

Subject to subsection 85ZV(3), where:

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

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

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

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Division 5—Complaints to Information Commissioner

85ZZ Information Commissioner's functions

(1) The Information Commissioner has the following functions:

(a) to investigate an act or practice of a person or of a Commonwealth authority or State authority that may breach Division 2 or 3 and, where the Commissioner considers it appropriate, to try, by conciliation, to effect a settlement of the matters that gave rise to the investigation;

(b) to receive and examine any written requests for complete or partial exclusion of persons from the application of Division 2 or 3 and advise the Minister whether an exclusion should be granted and whether there should be any restrictions on the circumstances in which an exclusion would apply.

(1A) The functions conferred by subsection (1) are privacy functions for the purposes of the *Australian Information Commissioner Act 2010*.

(2) In the performance of those functions, the Information Commissioner shall:

(a) have due regard for the protection of important human rights and social interests that compete with the rights given by this Part, including the recognition of the right of government and business to achieve their objectives in an efficient way;

(b) take account of:

(i) international obligations accepted by Australia, including those concerning the international technology of communications; and

(ii) developing general international guidelines relevant to the better protection of individual privacy;

(c) take into account the nature of the offence concerned;

(d) ensure that his or her advice is, within the limitations of the powers of the Commonwealth, capable of acceptance, adaptation and extension in any State or Territory; and

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(e) ensure that his or her directions and advice are consistent with the Australian Privacy Principles.

85ZZA Complaints to the Information Commissioner

(1) A person may complain to the Information Commissioner about an act or practice of another person or of a Commonwealth authority or State authority that may be a breach of Division 2 or 3.

(2) A complaint shall be in writing.

(3) It is the duty of members of the Information Commissioner's staff to give appropriate help to a person who wishes to make a complaint and wants help to formulate the complaint.

(4) The complaint shall specify the respondent to the complaint.

85ZZB Identity of respondent to complaint

(1) If a complaint is about an act or practice of a Commonwealth Department or a State Department, or an officer of such a Department, the Secretary or head of the Department is the respondent to the complaint.

(2) If a complaint is about an act or practice of another Commonwealth authority or State authority, or a member or officer of such an authority, being an authority that is within the responsibility of a Commonwealth or State Minister but not within the responsibility of a Commonwealth Department or a State Department, the Minister is the respondent to the complaint.

(3) If a complaint is about an act or practice of any other Commonwealth authority or State authority, or a member or officer of such an authority, the chief executive officer of the authority is the respondent to the complaint.

(4) If a complaint is about an act or practice of a person other than a Commonwealth authority or a State authority, that person is the respondent to the complaint.

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85ZZC Investigation of complaints

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

(2) The Information Commissioner may decide not to investigate, or not to investigate further, an act or practice about which a complaint has been made if satisfied that:

(a) the act or practice is not a breach of Division 2 or 3;

(b) the complainant has not complained to the respondent about the act or practice;

(c) the complainant has complained to the respondent, and that the respondent:

(i) has dealt, or is dealing, adequately with the complaint; or

(ii) has not yet had an adequate opportunity to deal with the complaint;

(d) the complaint was made more than 12 months after the complainant became aware of the act or practice;

(e) the complaint is frivolous, vexatious, misconceived or lacking in substance;

(f) the act or practice is the subject of an application under another Commonwealth law, or under a State law or a Territory law, and that the subject-matter of the complaint has been, or is being, dealt with adequately under that law; or

(g) the act or practice could be made the subject of an application under another Commonwealth law, or under a State law or a Territory law, for a more appropriate remedy.

85ZZD Determinations of Information Commissioner

(1) After investigating a complaint, the Information Commissioner may:

(a) make a determination dismissing the complaint; or

(b) find the complaint substantiated and make a determination that includes one or more of the following:

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(i) a declaration that the authority or person about whom the complaint was made has engaged in conduct unlawful under this Act and should not repeat or continue that conduct;

(ii) a declaration that the respondent should do any reasonable act or carry out any reasonable course of conduct to redress any loss or damage suffered by the complainant;

(iii) a declaration that the respondent should employ or re-employ the complainant;

(iv) a declaration that the respondent should promote the complainant;

(v) a declaration that the complainant is entitled to a specified amount by way of compensation for any loss or damage suffered because of the act or practice about which the complaint was made;

(vi) a declaration that the termination of a contract or agreement should be varied to redress any loss or damage suffered by the complainant;

(vii) a declaration that it would be inappropriate for any further action to be taken in the matter.

(2) The Information Commissioner may require one or both parties to a complaint to attend such counselling as is specified by the Commissioner with a view to settling the matter to which the complaint relates.

(3) When making a determination, the Information Commissioner shall state any findings of fact upon which the determination is based.

(4) When making a determination, the Information Commissioner may declare that the complainant is entitled to a specified amount to reimburse the complainant for expenses reasonably incurred in connection with the making of the complaint and the investigation of the complaint.

(5) In paragraph (1)(b):

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damage includes humiliation suffered by the complainant or injury to his or her feelings.

85ZZE Payment of compensation or expenses

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

(a) if the complaint was about an act or practice of a Commonwealth authority—from the Commonwealth;

(b) if the complaint was about an act or practice of a State authority—from that State; or

(c) in any other case—from the respondent.

85ZZF Enforcement of determination or recommendation

(1) The Information Commissioner or the complainant may apply to the Federal Court of Australia for an order to enforce a determination under paragraph 85ZZD(1)(b) or subsection 85ZZD(4).

(2) If the Federal Court of Australia is satisfied that the authority or person about whom the complaint was made has done anything that is a breach of Division 2 or 3 the court may make any orders it thinks fit (including a declaration of right).

(3) An order may give effect to a determination.

85ZZG Application of Privacy Act

(1) Sections 42 to 48 (inclusive) of the Privacy Act, and sections 50, 64 to 68 (inclusive) and 98 of that Act apply, with any necessary changes, in relation to a complaint as if the complaint had been made under subsection 36(1) of that Act.

(2) Where a provision of the Privacy Act is applied under subsection (1) or (2), a reference in that provision to an agency shall be read as a reference to a Commonwealth authority or a State authority, as the case requires.

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Division 6—Exclusions

Subdivision A—Exclusions (Divisions 2 and 3)

85ZZGA Object of Subdivision

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

85ZZGB Exclusion: disclosing information to a person or body

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

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

(b) the disclosure is for the purpose of the person or body obtaining and dealing with such information in accordance with the prescribed law.

85ZZGC Exclusion: person or body taking information into account

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

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

(b) the taking into account is:

(i) for the purpose of dealing with such information in accordance with the prescribed law; or

(ii) required by or under a Commonwealth law, a State law or a Territory law.

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85ZZGD Exclusion: person or body disclosing information

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

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

(b) the disclosure is required by or under a Commonwealth law, a State law or a Territory law.

85ZZGE Prescribed persons and bodies

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

(a) to which information may be disclosed; or

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

the Minister must be satisfied that the person or body:

(c) is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children; and

(d) complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management; and

(e) complies with the principles of natural justice; and

(f) has risk assessment frameworks and appropriately skilled staff to assess risks to children's safety.

85ZZGF Definitions

In this Subdivision:

child means a person who is under 18.

work includes the following:

(a) work:

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

(ii) in a leadership role in a religious institution, as part of the duties of a religious vocation or in any other capacity for the purposes of a religious institution; or

(iii) as an officer of a body corporate, member of the committee of management of an unincorporated body or association or member of a partnership; or

(iv) as a volunteer, other than unpaid work engaged in for a private or domestic purpose; or

(v) as a self-employed person;

(b) practical training as part of a course of education or vocational training;

(c) acting in a prescribed capacity or engaging in a prescribed activity.

85ZZGG Reviews of operation of this Subdivision

(1) The Minister must cause 2 reviews of the operation of this Subdivision to be conducted.

(2) The first review must:

(a) start not later than 30 June 2011; and

(b) be completed within 3 months.

(3) The 2nd review must:

(a) start not later than 30 June 2013; and

(b) be completed within 3 months.

(4) The Minister must cause a written report about each review to be prepared.

(5) The Minister must cause a copy of each report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

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Subdivision B—Exclusions (Division 3)

85ZZH Exclusions

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

(a) a law enforcement agency, for the purpose of making decisions in relation to prosecution or sentencing or of assessing:
  (i) prospective employees or prospective members of the agency; or
  (ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;

(b) an intelligence or security agency, for the purpose of assessing:
  (i) prospective employees or prospective members of the agency; or
  (ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;

(c) a court or tribunal established under a Commonwealth law, a State law or a Territory law, for the purpose of making a decision, including a decision in relation to sentencing;

(d) a person who makes a decision under the *Migration Act 1958*, the *Australian Citizenship Act 2007*, or the *Immigration Act 1980* of the Territory of Norfolk Island, for the purpose of making that decision;

(g) a Commonwealth authority, for the purpose of assessing appointees or prospective appointees to a designated position;

(h) AUSTRAC, for the purpose of assessing:
  (i) prospective members of the staff of AUSTRAC; or
  (ii) persons proposed to be engaged as consultants under subsection 225(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*; or

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(iii) persons whose services are proposed to be made available to AUSTRAC under subsection 225(3) of that Act;

(j) the Australian Government Solicitor, for the purpose of instituting or conducting proceedings for Commonwealth offences;

(k) a prescribed person or body, for a prescribed purpose, in relation to a conviction for a prescribed offence.

85ZZJ Further exclusions—law enforcement agencies

(1) Division 3 does not apply in relation to:

(a) the disclosure of information by a law enforcement agency, or an employee or member of a law enforcement agency, to another law enforcement agency, or an employee or member of another law enforcement agency, where the disclosure is made in the discharge of the duties of the first-mentioned agency, employee or member;

(b) filing or recording information that comes into the possession of a law enforcement agency, or an employee or member of a law enforcement agency, where the filing or recording is done in the discharge of the duties of the agency, employee or member; or

(c) the use by a law enforcement agency of information relating to the investigation or prevention of crime, where the investigation or prevention of crime is a function of the agency.

(2) In this section:

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

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Subdivision C—Other matters

85ZZK Fair reporting: pardons and quashed convictions

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

85ZZL Criminal proceedings before the Federal Court of Australia

(1) The Federal Court of Australia (and an officer of that court) may:

(a) require a person to disclose information to the court, or an officer of the court, about any Commonwealth offence, State offence, Territory offence or foreign offence in relation to which the person has been charged or convicted; and

(b) take into account that information;

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

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

(2) Division 3 does not apply in relation to a disclosure of information, or a taking into account of information, under subsection (1).

(3) Subsections (1) and (2) have effect despite section 85ZP and any other Commonwealth law, and any State law, Territory law or foreign law.

(4) For the purposes of references in this section to ***foreign law*** or ***foreign offence***, a foreign country is taken to include a region where:

(a) the region is a colony, territory or protectorate of a foreign country; or

(b) the region is part of a foreign country; or

(c) the region is under the protection of a foreign country; or

(d) a foreign country exercises jurisdiction or control over the region; or

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(e) a foreign country is responsible for the region's international relations.

(5) In this section:

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

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

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Part VIII—Miscellaneous

87 False certificates

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

Penalty: Imprisonment for 2 years.

89 Trespassing on Commonwealth land

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

Penalty: 10 penalty units.

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

Penalty: 10 penalty units.

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

(4) An authorized Commonwealth officer shall not, under this section, request a person to furnish his or her name or address, or apprehend a person, unless he or she first produces to the person

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the instrument by virtue of which he or she is an authorized Commonwealth officer.

(5) In this section:

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

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

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

89A Discharging firearms on or over Commonwealth land

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

Penalty: Imprisonment for 6 months.

(2) A person who commits an offence against this section may be apprehended by a constable or an authorized Commonwealth officer and detained in proper custody to be dealt with according to law.

(3) An authorized Commonwealth officer shall not, under this section, apprehend a person unless he or she first produces to the person the instrument by virtue of which he or she is an authorized Commonwealth officer.

(4) In this section:

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

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

90 Trespass by cattle or live stock

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

Penalty: 1 penalty unit.

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

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

Penalty: Imprisonment for 1 year.

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

A person who:

(a) in a document that, under a law of a Territory, is, or is required to be, produced or furnished to, or filed or lodged with, a Commonwealth officer; or

(b) in a document that is required to be registered under, or to be prepared for the purposes of, a law of a Territory;

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

Penalty: Imprisonment for 2 years.

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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.

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Schedule—Form of explanation under section 23V

Section 23V

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

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

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

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

*Delete whichever is not applicable.

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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

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

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.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the amendment is set out in the endnotes.

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Endnote 2—Abbreviation key

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

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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)	—
as amended by				
War Precautions Act Repeal Act 1920	54, 1920	2 Dec 1920	2 Dec 1920	—
War Precautions Act Repeal Act 1920	54, 1920	2 Dec 1920	2 Dec 1920	—
Crimes Act 1926	9, 1926	16 Mar 1926	29 Mar 1926 (*Gazette* 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	3 July 1937	s. 5
Crimes Act 1941	6, 1941	4 Apr 1941	3 Sept 1939	—
Defence (Transitional Provisions) Act 1946	77, 1946	14 Dec 1946	1 Jan 1947	—
Statute Law Revision Act 1950	80, 1950	16 Dec 1950	31 Dec 1950	s. 16
Crimes Act 1955	10, 1955	31 May 1955	31 May 1955	—
Crimes Act 1959	11, 1959	23 Apr 1959	s. 4: 14 Jan 1960 (s. 2 and *Gazette* 1960, p. 47) Remainder: Royal Assent	—
Crimes Act 1960	84, 1960	13 Dec 1960	13 Dec 1960	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	1 Dec 1966	—
Crimes Act 1973	33, 1973	27 May 1973	27 May 1973	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	31 Dec 1973	ss. 9(1) and 10
Postal and Telecommunications Commissions (Transitional Provisions) Act 1975	56, 1975	12 June 1975	ss. 4 and 38: 1 July 1975 (s. 2(1) and *Gazette* 1975, No. S122) Remainder: Royal Assent	—
Jurisdiction of Courts (Miscellaneous Amendments) Act 1979	19, 1979	28 Mar 1979	Parts II–XVII (ss. 3–123): 15 May 1979 (*Gazette* 1979, No. S86) Remainder: Royal Assent	s. 124
Australian Federal Police (Consequential Amendments) Act 1979	155, 1979	28 Nov 1979	19 Oct 1979 (s. 2 and *Gazette* 1979, No. S206)	—
Australian Federal Police (Consequential Amendments) Act 1980	70, 1980	28 May 1980	28 May 1980	—
Crimes (Currency) Act 1981	122, 1981	17 Sept 1981	ss. 1–3: Royal Assent Remainder: 16 Dec 1985 (s. 2(2))	—
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s. 3: 16 Dec 1985 (s 2(1) items 1, 7)	s. 16

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Amendment Act 1982	67, 1982	16 June 1982	ss. 1, 2 and 14: Royal Assent ss. 6, 8 and 9: 16 Dec 1985 Remainder: 1 Nov 1982 (*Gazette* 1982, No. G43, p. 2)	ss. 4(2), 5(2), 7(2), 8(2), (3), 10(2) and 13(2) s. 6(2) (rep. by 193, 1985, s. 3)
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s. 3: Royal Assent	s. 16
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	Part XXII (ss. 60–65): 16 Dec 1985 (s 2(6))	—
Defence Force (Miscellaneous Provisions) Act 1982	153, 1982	31 Dec 1982	3 July 1985 (s. 2 and *Gazette* 1985, No. S255)	—
Statute Law (Miscellaneous Provisions) Act (No. 2) 1983	91, 1983	22 Nov 1983	s. 3: Royal Assent	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)) Remainder: 5 Mar 1984 (s. 2(1) and *Gazette* 1984, No. S55)	—
Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1983	136, 1983	22 Dec 1983	27 Aug 1985 (s. 2 and *Gazette* 1985, No. S322)	s. 5

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Government Solicitor (Consequential Amendments) Act 1984	10, 1984	10 Apr 1984	s. 3: 16 Dec 1985 (s 2(2))	s. 4(1) and (3)
Public Service Reform Act 1984	63, 1984	25 June 1984	s. 152(1): 20 July 1984 (*Gazette* 1984, No. S276)	—
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s. 3: Royal Assent	ss. 2(32) and 6(1)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s. 3: 16 Dec 1985 (s 2(1), (6))	s. 8
Statute Law (Miscellaneous Provisions) Act (No. 1) 1986	76, 1986	24 June 1986	s. 3 [in part]: 24 June 1986 (s 2(1)) s. 3 [in part]: 1 Oct 1986 (s 2(6) and *Gazette* 1986, No. S471)	s. 9
Intelligence and Security (Consequential Amendments) Act 1986	102, 1986	17 Oct 1986	1 Feb 1987 (s. 2 and *Gazette* 1987, No. S13)	—
Statute Law (Miscellaneous Provisions) Act (No. 2) 1986	168, 1986	18 Dec 1986	s. 3: Royal Assent	s. 5(1)
Proceeds of Crime (Miscellaneous Amendments) Act 1987	73, 1987	5 June 1987	5 June 1987 (s. 2)	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Legislation Amendment Act 1987	120, 1987	16 Dec 1987	ss. 10, 12, 13 and 15: 13 Jan 1988 ss. 11 and 14: 1 Mar 1989 (*Gazette* 1989, No. S54) ss. 16–18: 19 Dec 1988 (*Gazette* 1988, No. S384)	—
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s. 3: Royal Assent	s. 5(1), (6) and (7)
Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989	63, 1989	19 June 1989	Part 2 (ss. 3–5): 1 July 1989 (*Gazette* 1989, No. S230)	—
Crimes Legislation Amendment Act 1989	108, 1989	30 June 1989	s. 10: 1 July 1990 Parts 5–7 (ss. 7–35): 28 July 1989 Part 8 (ss. 36–43): 1 July 1989 Remainder: Royal Assent	s. 12
Crimes Legislation Amendment Act (No. 2) 1989	4, 1990	17 Jan 1990	ss. 3–19 and 23–35: 17 July 1990 (s 2(13), (14)) ss. 20–22: 1 July 1990 (s 2(2))	ss. 23–28, 30–33 and 35(3)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Schedule 2 (items 5, 6): 17 Jan 1990 (s 2(1) item 7)	—
Law and Justice Legislation Amendment Act 1989	11, 1990	17 Jan 1990	Parts 1 and 3 (ss. 1, 2, 6, 7): Royal Assent ss. 8–10: 17 July 1990 ss. 12, 15, 51(1)(b) and 51(2): 17 Jan 1990 (s. 2(5)) Remainder: 14 Feb 1990	—
Defence Legislation Amendment Act 1990	75, 1990	22 Oct 1990	s. 3 (in part): 15 Dec 1990 (*Gazette* 1990, No. S316) s. 4(1): 30 June 1989 s. 5: 30 June 1990 (s. 2(5)) Remainder: Royal Assent	—
Crimes Legislation Amendment Act 1991	28, 1991	4 Mar 1991	ss. 24, 25, 27, 28 and 30(a), (c): 4 Mar 1991 (s 2(1)) ss. 26 and 29: 1 Apr 1991 (s 2(3)) s. 30(b): 29 Apr 1991 (s 2(2) and *Gazette* 1991, No. S108)	—
Crimes (Investigation of Commonwealth Offences) Amendment Act 1991	59, 1991	9 May 1991	ss. 1 and 2: Royal Assent Remainder: 1 Nov 1991 (*Gazette* 1991, No. S291)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Telecommunications (Transitional Provisions and Consequential Amendments) Act 1991	99, 1991	27 June 1991	Part 1 (ss. 1, 2): Royal Assent Part 2 (ss. 3–22), s. 23 and Part 4 (s. 25): 1 July 1991 Remainder: 1 Feb 1992 (s. 2(3) and *Gazette* 1992, No. S32)	—
as amended by				
AUSSAT Repeal Act 1991	145, 1991	21 Oct 1991	(145, 1991 below)	—
Proceeds of Crime Legislation Amendment Act 1991	120, 1991	27 June 1991	ss. 1 and 2: Royal Assent Remainder: 27 Dec 1991 (s. 2(3))	—
Crimes Legislation Amendment Act (No. 2) 1991	123, 1991	23 Aug 1991	ss. 5–10, Parts 3–7 (ss. 11–34), Part 9 (ss. 38, 39) and ss. 40–50: 20 Sept 1991 Part 8 (ss. 35–37): 6 Dec 1991 (*Gazette* 1991, No. S330) s. 51: 23 Feb 1992 Remainder: Royal Assent	—
Crimes Amendment Act 1991	140, 1991	27 Sept 1991	25 Oct 1991	—
AUSSAT Repeal Act 1991	145, 1991	21 Oct 1991	Part 3 (ss. 8–12): 1 Feb 1992 (*Gazette* 1992, No. S46) Remainder: Royal Assent	s. 11(2)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Legislation Amendment Act 1992	164, 1992	11 Dec 1992	ss. 3–17: 1 Feb 1993 (*Gazette* 1993, No. GN1) Remainder: 8 Jan 1993	—
Industrial Relations Reform Act 1993	98, 1993	22 Dec 1993	Div. 3 of Part 7 (s. 62): 30 Mar 1994 (*Gazette* 1994, No. S104)	—
Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994	65, 1994	30 May 1994	30 Nov 1994	—
as amended by				
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Schedule 3 (item 5): 30 May 1994 (s 2(1) item 13) Schedule 3 (item 42): Royal Assent	Sch. 3 (item 42)
Crimes (Child Sex Tourism) Amendment Act 1994	105, 1994	5 July 1994	5 July 1994	—
Law and Justice Legislation Amendment Act (No. 2) 1994	141, 1994	28 Nov 1994	s. 3 (items 1–10): 30 Nov 1994 (s 2(2)(b))	—
as amended by				
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 3 (items 37, 38): 28 Nov 1994	—
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Schedule 2 (item 14): 28 Nov 1994 (s 2(1) item 9)	—
Australian Postal Corporation Amendment Act 1994	142, 1994	5 Dec 1994	ss. 4(a), (f), 14(c), (d) and 16(a): 1 Jan 1995 Remainder: Royal Assent	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes and Other Legislation Amendment Act 1994	182, 1994	19 Dec 1994	ss. 8, 9, 14(a), 15(a), 16(a), 17(a), 18(b) and 20–22: Royal Assent ss. 10–13, 14(b), 15(b), 16(b), 17(b), 18(a) and 19: 16 Jan 1995	s. 9
as amended by				
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 3 (item 10): 19 Dec 1994	—
Evidence (Transitional Provisions and Consequential Amendments) Act 1995	3, 1995	23 Feb 1995	s. 14: 23 Feb 1995 (s 2(1)) ss. 17–20: 18 Apr 1995 (s 2(6)–(9))	s. 14
Crimes Amendment Act 1995	11, 1995	15 Mar 1995	15 Sept 1995	—
Crimes Amendment (Controlled Operations) Act 1996	28, 1996	8 July 1996	8 July 1996	—
as amended by				
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Schedule 3 (item 6): 8 July 1996 (s 2(1) items 14) Schedule 3 (item 42): Royal Assent	Sch. 3 (item 42)
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Schedule 16 (item 59): 25 Apr 1997 Schedule 19 (item 16): Royal Assent	s. 2(2) and (6) (am. by 77, 1996, Sch. 3 [items 1, 2])

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Workplace Relations and Other Legislation Amendment Act (No. 2) 1996	77, 1996	19 Dec 1996	Schedule 3 (items 1, 2): 25 Nov 1996 (s 2(4))	—
Crimes and Other Legislation Amendment Act 1997	20, 1997	7 Apr 1997	Schedule 1 (item 9): Royal Assent	—
Law and Justice Legislation Amendment Act 1997	34, 1997	17 Apr 1997	Schedule 4: Royal Assent	—
Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997	59, 1997	3 May 1997	Schedule 1 (items 16–34): 1 July 1997	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Schedule 2 (items 636–638): 1 Jan 1998 (s. 2(2) and *Gazette* 1997, No. GN49)	—
Crimes Amendment (Enforcement of Fines) Act 1998	49, 1998	29 June 1998	29 June 1998	Sch. 1 (items 2, 8)
as amended by				
Statute Law Revision Act 2006	9, 2006	23 Mar 2006	Schedule 2 (item 14): 29 June 1998 (s 2(1) item 29)	—
Financial Sector Reform (Amendments and Transitional Provisions) Act 1998	54, 1998	29 June 1998	Schedule 18 (item 45): 1 July 1998 (s. 2(2) and *Gazette* 1998, No. S316)	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Amendment (Forensic Procedures) Act 1998	96, 1998	23 July 1998	Schedule 1, Schedule 2 (items 1–11, 13–19) and Schedule 3: 23 Jan 1999 Schedule 2 (item 12): 15 Sept 1995 (s 2(2)) Remainder: Royal Assent	—
as amended by				
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Schedule 3 (item 41): 23 July 1998 (s 2(1) item 26) Schedule 3 (item 42): Royal Assent	Sch. 3 (item 42)
Broadcasting Services Amendment (Online Services) Act 1999	90, 1999	16 July 1999	16 July 1999	—
Crimes Amendment (Fine Enforcement) Act 1999	123, 1999	13 Oct 1999	13 Oct 1999	Sch. 1 (item 5)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Schedule 1 (items 343–348): 5 Dec 1999 (s. 2(1) and *Gazette* 1999, No. S584)	—
Australian Security Intelligence Organisation Legislation Amendment Act 1999	161, 1999	10 Dec 1999	Schedule 3 (items 1, 22, 23): 10 Dec 1999 (s 2(2))	—
Privacy Amendment (Office of the Privacy Commissioner) Act 2000	2, 2000	29 Feb 2000	1 July 2000 (*Gazette* 2000, No. S229)	—
Australian Federal Police Legislation Amendment Act 2000	9, 2000	7 Mar 2000	2 July 2000 (*Gazette* 2000, No. S328)	Sch. 3 (items 20, 23, 34, 35)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes at Sea Act 2000	13, 2000	31 Mar 2000	ss. 1 and 2: Royal Assent Remainder: 31 Mar 2001	Sch. 2 (item 11)
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419)
Crimes Amendment (Forensic Procedures) Act 2001	22, 2001	6 Apr 2001	Schedule 1 (items 1, 4–77, 80–86): 20 June 2001 (*Gazette* 2001, No GN24) Schedule 1 (items 78, 79): 20 June 2001 (s 2(4)) Remainder: Royal Assent	—
as amended by				
Statute Law Revision Act 2002	63, 2002	3 July 2002	Schedule 2 (item 6): 20 June 2001 (s 2(1) item 35)	—
Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001	24, 2001	6 Apr 2001	s. 4(1), (2) and Schedule 10: 24 May 2001 (s 2(1)(a)) Schedule 1 (items 1, 2): 4 May 2001 (s 2(2)) Schedule 51 (item 4): 15 Dec 2001 (s 2(3))	s. 4(1) and (2)
Crimes Amendment (Age Determination) Act 2001	37, 2001	7 May 2001	4 June 2001	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	ss. 4–14 and Schedule 3 (item 147): 15 July 2001 (s. 2(3) and *Gazette* 2001, No. S285)	ss. 4–14
National Crime Authority Legislation Amendment Act 2001	135, 2001	1 Oct 2001	Schedules 1–7 and 9–12: 12 Oct 2001 (*Gazette* 2001, No. S428) Schedule 8: 13 Oct 2001 (*Gazette* 2001, No. S428) Remainder: Royal Assent	—
Measures to Combat Serious and Organised Crime Act 2001	136, 2001	1 Oct 2001	ss. 1–3: Royal Assent Schedules 1 and 2: 12 Oct 2001 (*Gazette* 2001, No. S428) Schedule 4 (item 10): awaiting commencement (s 2(1) item 4) Remainder: 29 Oct 2001	Sch. 1 (items 18, 41, 48) and Sch. 4 (item 51)
Cybercrime Act 2001	161, 2001	1 Oct 2001	21 Dec 2001 (*Gazette* 2001, No. S529)	—
Criminal Code Amendment (Anti-hoax and Other Measures) Act 2002	9, 2002	4 Apr 2002	Schedule 1: 16 Oct 2001 (s 2(1) item 2) Remainder: Royal Assent	—
Security Legislation Amendment (Terrorism) Act 2002	65, 2002	5 July 2002	Schedule 1 (items 6, 8–13): 6 July 2002	—
Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002	86, 2002	11 Oct 2002	ss. 1–3: Royal Assent Remainder: 1 Jan 2003 (s. 2(1) and *Gazette* 2002, No. GN44)	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Amendment Act 2002	88, 2002	23 Oct 2002	Schedule 1 (item 1): 12 Oct 2002 Schedule 1 (item 2): 1 Jan 2003 (s 2(1) item 3) Remainder: Royal Assent	—
Criminal Code Amendment (Espionage and Related Matters) Act 2002	91, 2002	31 Oct 2002	s. 4: Royal Assent Schedule 1 (items 1A, 1–3) and Schedule 2 (items 3, 4): 28 Nov 2002 Schedule 2 (items 1, 2): Never commenced ((s 2(1) items 5, 6), (4), (5))	s. 4 s. 2(4) (am. by 100, 2005, Sch. 2 [item 10]) s. 2(5) (am. by 100, 2005, Sch. 2 [item 11])
as amended by				
Statute Law Revision Act 2005	100, 2005	6 July 2005	Schedule 2 (items 10, 11): 31 Oct 2002 (s 2(1) item 31)	—
Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002	105, 2002	14 Nov 2002	Schedule 3 (item 37): 12 May 2003 (s. 2 and *Gazette* 2002, No. GN49)	—
Australian Crime Commission Establishment Act 2002	125, 2002	10 Dec 2002	Schedule 2 (items 5–30): 1 Jan 2003	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Act 2002	141, 2002	19 Dec 2002	Schedules 1, 2 and Schedule 3 (items 1–22, 24–26): 16 Jan 2003 Schedule 3 (item 23): 1 Jan 2003 (s. 2(1) and *Gazette* 2002, No. GN44) Remainder: Royal Assent	s. 4
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Schedule 1 (items 1–7, 7A) and Schedule 3 (items 2–4, 8–13, 37–40, 42): Royal Assent Schedule 1 (items 7B–7F): 1 Mar 2003 Schedule 1 (items 8, 9): 17 July 1990 (s 2(1) items 3, 4) Schedule 3 (item 16): 30 Nov 1994 (s 2(1) item 17) Schedule 3 (item 17): 4 June 2001 (s 2(1) item 18) Schedule 3 (items 18–29): 23 Jan 1999 (s 2(1) item 19)	Sch. 1 (items 5, 7, 7F) and Sch. 3 (item 42)
Telecommunications Interception and Other Legislation Amendment Act 2003	113, 2003	12 Nov 2003	Schedule 1: 6 Feb 2004 (*Gazette* 2004, No. S27) Remainder: Royal Assent	—
Law and Justice Legislation Amendment Act 2004	62, 2004	26 May 2004	Schedule 1 (item 13): 12 Oct 2001 (s 2(1) item 7)	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Federal Police and Other Legislation Amendment Act 2004	64, 2004	22 June 2004	Schedule 2 (item 5): 1 July 2004 Schedule 3 (items 3D, 4–6, 6A, 7, 7A, 7B, 8–13, 13A, 13B, 14–16): 22 Dec 2004	—
as amended by				
Statute Law Revision Act 2005	100, 2005	6 July 2005	Schedule 2 (item 7): 22 Dec 2004 (s 2(1) item 28)	—
Anti-terrorism Act 2004	104, 2004	30 June 2004	1 July 2004	s. 4(1A) and (1B)
Anti-terrorism Act (No. 2) 2004	124, 2004	16 Aug 2004	Schedule 3: 17 Aug 2004 Remainder: Royal Assent	—
Anti-terrorism Act (No. 3) 2004	125, 2004	16 Aug 2004	Schedules 1 and 2: 13 Sept 2004 Schedule 3 (item 6): 22 Dec 2004 (s 2(1) item 5) Remainder: Royal Assent	—
Crimes Legislation Amendment (Telecommunications Offences and Other Measures) Act (No. 2) 2004	127, 2004	31 Aug 2004	Schedule 1 (items 3–5, 30, 31): 1 Mar 2005	Sch. 1 (item 30) Sch. 1 (item 31) (am. by 40, 2006, Sch. 1 [item 16])

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Telecommunications (Interception) Amendment Act 2006	40, 2006	3 May 2006	Schedule 1 (item 16): 13 June 2006 (F2006L01623)	—
Australian Passports (Transitionals and Consequentials) Act 2005	7, 2005	18 Feb 2005	ss. 4–11 and Schedule 1: 1 July 2005 (s. 2(1)) Remainder: Royal Assent	—
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Schedule 1 (items 122, 123, 496): Royal Assent	s. 4 and Sch. 1 (item 496)
Crimes Amendment Act 2005	87, 2005	6 July 2005	6 July 2005	—
Criminal Code Amendment (Trafficking in Persons Offences) Act 2005	96, 2005	6 July 2005	Schedules 1 and 2: 3 Aug 2005 Remainder: Royal Assent	—
Statute Law Revision Act 2005	100, 2005	6 July 2005	Schedule 1 (items 8–10): Royal Assent Schedule 1 (item 11): 16 Aug 2004 (s 2(1) item 7)	—
Intelligence Services Legislation Amendment Act 2005	128, 2005	4 Nov 2005	Schedules 1–8: 2 Dec 2005 Remainder: Royal Assent	—
Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005	129, 2005	8 Nov 2005	Schedule 1 (items 2–13, 75, 76): 6 Dec 2005	Sch. 1 (items 75, 76)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Act 2005	136, 2005	15 Nov 2005	16 Nov 2005	Sch. 1 (items 7, 19)
Anti-Terrorism Act (No. 2) 2005	144, 2005	14 Dec 2005	s. 4: Royal Assent Schedules 5 and 6: 15 Dec 2005 Schedule 7 (items 1–4): 11 Jan 2006	s. 4
Statute Law Revision Act 2006	9, 2006	23 Mar 2006	Schedule 1 (item 10): 30 Nov 1994 (s 2(1) item 7) Schedule 1 (items 11, 12): Royal Assent	—
ASIO Legislation Amendment Act 2006	54, 2006	19 June 2006	Schedule 1 (item 11): 20 June 2006	—
Law Enforcement (AFP Professional Standards and Related Measures) Act 2006	84, 2006	30 June 2006	Schedule 3 (items 33–35): 30 Dec 2006 (s. 2(1))	—
Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006	86, 2006	30 June 2006	Schedule 1 (items 11–31): 30 Dec 2006 (s. 2(1))	—
Crimes Act Amendment (Forensic Procedures) Act (No. 1) 2006	130, 2006	4 Nov 2006	5 Nov 2006	Sch. 1 (item 52)
Judiciary Legislation Amendment Act 2006	151, 2006	7 Dec 2006	7 Dec 2006	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006	170, 2006	12 Dec 2006	Schedule 1 (items 19, 20):13 Dec 2006 (s. 2(1))	—
Crimes Amendment (Bail and Sentencing) Act 2006	171, 2006	12 Dec 2006	13 Dec 2006	Sch. 1 (item 6)
Law and Justice Legislation Amendment (Marking of Plastic Explosives) Act 2007	3, 2007	19 Feb 2007	Schedule 3 (items 3, 4): 25 Aug 2007	—
Migration Amendment (Employer Sanctions) Act 2007	7, 2007	19 Feb 2007	Schedule 2 (item 1): 19 Aug 2007	—
Australian Citizenship (Transitionals and Consequentials) Act 2007	21, 2007	15 Mar 2007	Schedule 1 (item 23): 1 July 2007 (s. 2(1) and F2007L01653)	—
Crimes Legislation Amendment (Miscellaneous Matters) Act 2008	70, 2008	1 July 2008	Schedule 1 (item 2): Royal Assent	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Schedule 4 (items 201–207): 4 July 2008	—
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Schedule 2 (items 34–40): 10 Dec 2008	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Customs Legislation Amendment (Name Change) Act 2009	33, 2009	22 May 2009	Schedule 2 (items 15–19): 23 May 2009	—
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Schedule 5 (item 20): 1 July 2009 (s 2(1) item 11)	—
Federal Court of Australia Amendment (Criminal Jurisdiction) Act 2009	106, 2009	6 Nov 2009	Schedule 1 (items 10–25): 4 Dec 2009	—
Crimes Legislation Amendment (Serious and Organised Crime) Act 2010	3, 2010	19 Feb 2010	Schedule 1 (item 44) and Schedule 3 (items 1–20): Royal Assent Schedule 2 (item 9): 20 Feb 2010	Sch. 3 (items 11–20)
Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010	4, 2010	19 Feb 2010	Schedule 2, Schedule 6 (items 1, 2), Schedule 10 (items 7, 8) and Schedule 11 (items 5, 6): 20 Feb 2010 Schedule 6 (item 3): 1 Jan 2010 (s 2(1) item 11)	Sch. 2 (items 11, 25) and Sch. 6 (items 2, 3)
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Schedule 5 (item 137(a)): 1 March 2010 (s 2(1) items 31, 38)	—
Crimes Amendment (Working With Children—Criminal History) Act 2010	28, 2010	25 Mar 2010	26 Mar 2010	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010	42, 2010	14 Apr 2010	Schedule 1 (items 1, 62–71): 15 Apr 2010 Schedule 2: 12 May 2010	Sch. 1 (items 64, 71) and Sch. 2 (item 9)
Health Practitioner Regulation (Consequential Amendments) Act 2010	48, 2010	31 May 2010	Schedule 1 (item 1): awaiting commencement (s 2(1) item 2)	—
Freedom of Information Amendment (Reform) Act 2010	51, 2010	31 May 2010	Schedule 5 (items 12–26) and Schedule 7: 1 Nov 2010 (s 2(1) item 7)	—
Crimes Amendment (Royal Flying Doctor Service) Act 2010	101, 2010	6 July 2010	6 July 2010	Sch. 1 (item 3)
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Schedule 6 (items 1, 49): 1 Jan 2011	—
National Security Legislation Amendment Act 2010	127, 2010	24 Nov 2010	Schedule 1 (items 1–3) and Schedules 3–6: 25 Nov 2010	Sch. 3 (item 18) and Sch. 6 (item 4)
Crimes Legislation Amendment Act 2011	2, 2011	2 Mar 2011	Schedule 3: 3 Mar 2011	Sch. 3 (items 23, 40, 44)
Law and Justice Legislation Amendment (Identity Crimes and Other Measures) Act 2011	3, 2011	2 Mar 2011	Schedule 2 (items 1–20) and Schedule 7 (item 2): 3 Mar 2011	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Schedule 5 (items 63, 64), Schedule 6 (items 24–27), Schedule 7 (item 42) and Schedule 8 (item 2): 19 Apr 2011	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 453–456) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Crimes Legislation Amendment Act (No. 2) 2011	174, 2011	5 Dec 2011	Schedule 2 (items 151–153): 1 Jan 2012	Sch. 2 (item 153)
Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Act 2012	7, 2012	20 Mar 2012	Schedule 3 (items 70–105, 113): 20 Sept 2012	Sch. 3 (item 113)
Crimes Legislation Amendment (Powers and Offences) Act 2012	24, 2012	4 Apr 2012	Schedule 1 (items 1–75) and Schedule 8: 5 Apr 2012 Schedule 1 (items 76–80) and Schedule 7: 4 Oct 2012	Sch. 1 (items 74, 75, 80), Sch. 7 (item 12) and Sch. 8 (items 5–7)
Telecommunications Interception and Other Legislation Amendment (State Bodies) Act 2012	74, 2012	27 June 2012	Schedule 1 (items 1, 27): 10 Feb 2013 (s. 2(1))	Sch. 1 (item 27)
Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Act 2012	101, 2012	29 June 2012	Schedule 4: 16 July 2012 (s. 2(1))	Sch. 4 (item 9)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Schedule 1 (item 38): Royal Assent	—
Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Act 2012	167, 2012	28 Nov 2012	Schedule 2 (items 8, 10(1)): 29 Nov 2012 Schedule 3 (items 7–9): 28 Dec 2012	Sch. 2 (item 10(1)) and Sch. 3 (item 9)
Law Enforcement Integrity Legislation Amendment Act 2012	194, 2012	12 Dec 2012	Schedule 1 (items 1–30): 13 Dec 2012	Sch. 1 (item 30)
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (item 26): 12 Mar 2014 Schedule 5 (item 156): Royal Assent	—
Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013	6, 2013	7 Mar 2013	Schedule 2 (items 1, 2) and Schedule 3: 8 Mar 2013	Sch. 3
Federal Circuit Court of Australia (Consequential Amendments) Act 2013	13, 2013	14 Mar 2013	Schedule 1 (items 96–108): 12 Apr 2013 (s. 2(1))	Sch. 1 (item 108)
Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Act 2013	74, 2013	28 June 2013	Schedule 2 (items 1–78, 86–93) and Schedule 3 (items 1, 2): 29 June 2013	Sch. 2 (item 93)
Statute Law Revision Act 2013	103, 2013	29 June 2013	Schedule 3 (items 76, 77, 343) and Schedule 4 (item 38): Royal Assent	Sch. 3 (item 343)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 1 (items 14, 15) and Sch 4 (item 64): 24 June 2014	—
National Security Legislation Amendment Act (No. 1) 2014	108, 2014	2 Oct 2014	Sch 1 (items 37, 78–87) and Sch 6 (item 25): 30 Oct 2014 (s 2(1) item 2) Sch 7 (items 84–87, 144, 145): 3 Oct 2014 (s 2(1) items 3and 5)	Sch 1 (items 78–87) and Sch 7 (items 144, 145)
Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014	116, 2014	3 Nov 2014	Sch 1 (items 35–56): 1 Dec 2014 (s 2(1) item 2)	Sch 1 (items 38, 48, 55)

Number and year	FRLI registration	Commencement	Application, saving and transitional provisions
2006 No. 50	17 Mar 2006 (*see* F2006L00820)	Schedule 33: 27 Mar 2006 (r. 2(b))	—

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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; Nos. 63 and 165, 1984; No. 141, 1987; No. 63, 1989; No. 4, 1990; No. 28, 1991; No. 99, 1991 (as am. by No. 145, 1991); Nos. 120 and 140, 1991; No. 65, 1994; No. 28, 1996; No. 152, 1997; No. 96, 1998; No. 146, 1999; Nos. 9 and 137, 2000; No 24 and 136, 2001; Nos. 86 and 125, 2002; Nos. 64, 104 and 125, 2004; No. 129, 2005; Nos. 86 and 171, 2006; No. 3, 2007; No. 144, 2008; Nos. 33 and 106, 2009; Nos. 3 and 42, 2010; No 48, 2010; Nos. 2, 3 and 5, 2011; No. 101, 2012; No 116, 2014
s. 3AA	ad. No. 64, 2004
	am. No. 3, 2011
s. 3A	ad. No. 84, 1960
s. 3B	ad. No. 67, 1982
	am. No. 193, 1985; No. 4, 1990; No. 34, 1997; No. 49, 1998 (as am. by No. 9, 2006)
s. 3BA	ad. No. 24, 2001
s. 3BB	ad. No. 24, 2001
	rep. No. 24, 2001
Part IAA	
Heading to Part 1AA	rep. No. 41, 2003
Heading to Part IAA	ad. No. 41, 2003
	rs. No. 144, 2005; No 116, 2014
Part 1AA	ad. No. 65, 1994
Division 1	
s. 3C	ad. No. 65, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	am. No. 141, 1994; No. 161, 2001; No. 64, 2004; No. 144, 2005; Nos. 4, 42 and 127, 2010; No. 2, 2011; No 116, 2014
s. 3CA	ad. No. 141, 1994
	am. No. 4, 2010; No. 2, 2011
s. 3D	ad. No. 65, 1994
	am. No. 64, 2004; No. 144, 2005; No 116, 2014
Division 2	
s. 3E	ad. No. 65, 1994
	am. No. 136, 2001; No. 86, 2002; No. 127, 2010; No 116, 2014
s. 3F	ad. No. 65, 1994
	am. No. 86, 2002; No. 4, 2010
ss. 3G, 3H	ad. No. 65, 1994
s. 3J	ad. No. 65, 1994
	am. No. 127, 2010
s. 3JA	ad. No. 127, 2010
Subheads. to s. 3K(1)–(3)	ad. No. 2, 2011
Subhead. to s. 3K(3A)	ad. No. 2, 2011
Subhead. to s. 3K(4)	ad. No. 2, 2011
s. 3K	ad. No. 65, 1994
	am. No. 161, 2001; No. 4, 2010; No. 2, 2011
s. 3L	ad. No. 65, 1994
	am. No. 161, 2001; No. 84, 2006; Nos. 4 and 127, 2010; No. 2, 2011
s. 3LAA	ad. No. 4, 2010
	am. No. 2, 2011
s. 3LA	ad. No. 161, 2001
	rs. No. 4, 2010
	am. No. 2, 2011
Note to s. 3LA(3)	am. No. 2, 2011
Heading to s. 3LB	am. No. 2, 2011
s. 3LB	ad. No. 161, 2001
	am. No. 4, 2010; No. 2, 2011

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Provision affected	How affected
hdg to s 3M	rs No 31, 2014
s. 3M	ad. No. 65, 1994
	rs. No. 4, 2010
	am. No. 2, 2011
s. 3N	ad. No. 65, 1994
	am. No. 161, 2001; No. 4, 2010
s. 3P	ad. No. 65, 1994
	am. No. 41, 2003
hdg to s 3Q	rs No 31, 2014
s. 3Q	ad. No. 65, 1994
s. 3R	ad. No. 65, 1994
	am. No. 136, 2001; No 31, 2014
s. 3S	ad. No. 65, 1994
	am. No. 9, 2006
Division 3	
ss. 3T, 3U	ad. No. 65, 1994
Division 3A	
Heading to Div. 3A of Part IAA	rs. No. 127, 2010
Div. 3A of Part IAA	ad. No. 144, 2005
Subdivision A	
s. 3UA	ad. No. 144, 2005
	am. No. 2, 2011
Subdivision B	
s. 3UB	ad. No. 144, 2005
	am. No. 127, 2010
ss. 3UC–3UE	ad. No. 144, 2005
s. 3UEA	ad. No. 127, 2010
Heading to s. 3UF	rs. No. 4, 2010
s. 3UF	ad. No. 144, 2005
	am. Nos. 4 and 127, 2010

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Endnote 4—Amendment history

Provision affected	How affected
s. 3UG	ad. No. 144, 2005
	rep. No. 4, 2010
s. 3UH	ad. No. 144, 2005
Subdivision C	
s. 3UI	ad. No. 144, 2005
s. 3UJ	ad. No. 144, 2005
	am. No. 8, 2010
Subdivision D	
s. 3UK	ad. No. 144, 2005
	am. No. 4, 2010; No 116, 2014
Division 3B	
Div. 3B of Part IAA	ad. No. 167, 2012
s. 3UL	ad. No. 167, 2012
s. 3UM	ad. No. 167, 2012
s. 3UN	ad. No. 167, 2012
Division 4	
s. 3V	ad. No. 65, 1994
	am. No. 24, 2001
s. 3W	ad. No. 65, 1994
	am No 116, 2014
s 3WA	ad No 116, 2014
s. 3X	ad. No. 65, 1994
	am. No. 41, 2003
s. 3Y	ad. No. 65, 1994
	am. No. 106, 2009
s. 3Z	ad. No. 65, 1994
s 3ZA	ad. No. 65, 1994
s. 3ZB	ad. No. 65, 1994
	am No 116, 2014
s. 3ZC	ad. No. 65, 1994
s. 3ZD	ad. No. 65, 1994

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Provision affected	How affected
s. 3ZE	ad. No. 65, 1994
s. 3ZF	ad. No. 65, 1994
s. 3ZG	ad. No. 65, 1994
s. 3ZH	ad. No. 65, 1994
	am. No. 96, 1998; No. 136, 2001; No. 41, 2003; No 31, 2014
s. 3ZI	ad. No. 65, 1994
	am. No. 141, 1994 (as am. by No. 43, 1996)
s. 3ZJ	ad. No. 65, 1994
	am. No. 141, 1994 (as am. by No. 43, 1996); No. 96, 1998; No. 41, 2003; No. 2, 2011
s. 3ZK	ad. No. 65, 1994
	am. No. 141, 1994
s. 3ZL	ad. No. 65, 1994
	am. Nos. 22 and 24, 2001; No. 41, 2003
s. 3ZM	ad. No. 65, 1994
	am. No. 3, 1995; No. 41, 2003
s. 3ZN	ad. No. 65, 1994
	am. No. 141, 1994
s. 3ZO	ad. No. 65, 1994
	am. No. 3, 1995
ss. 3ZP, 3ZQ	ad. No. 65, 1994
Division 4A	
Div. 4A of Part 1AA	ad. No. 37, 2001
Subdivision A	
s. 3ZQA	ad. No. 37, 2001
	am. No. 64, 2004; No. 74, 2013
Subdivision B	
s. 3ZQB	ad. No. 37, 2001
s. 3ZQC	ad. No. 37, 2001
	am. No. 41, 2003
ss. 3ZQD, 3ZQE	ad. No. 37, 2001

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision C	
s. 3ZQF	ad. No. 37, 2001
Subdivision D	
s. 3ZQG	ad. No. 37, 2001
Subdivision E	
ss. 3ZQH, 3ZQI	ad. No. 37, 2001
Subdivision F	
s. 3ZQJ	ad. No. 37, 2001
	am. No. 51, 2010
s. 3ZQK	ad. No. 37, 2001
Division 4B	
Div. 4B of Part IAA	ad. No. 144, 2005
Subdivision A	
Heading to s. 3ZQL	rs. No. 13, 2013
s. 3ZQL	ad. No. 144, 2005
	am. No. 13, 2013
Subdivision B	
s. 3ZQM	ad. No. 144, 2005
	am. No. 2, 2011
Subdivision C	
s. 3ZQN	ad. No. 144, 2005
	am No 116, 2014
s. 3ZQO	ad. No. 144, 2005
	am. No. 13, 2013
s. 3ZQP	ad. No. 144, 2005
Heading to s. 3ZQQ	rs. No. 13, 2013
s. 3ZQQ	ad. No. 144, 2005
	am. No. 13, 2013
s. 3ZQR	ad. No. 144, 2005
s. 3ZQS	ad. No. 144, 2005
s. 3ZQT	ad. No. 144, 2005

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Provision affected	How affected
Division 4C	
Div. 4C of Part IAA	ad. No. 4, 2010
Subdivision A	
s. 3ZQU	ad. No. 4, 2010
	am. No. 74, 2012
s. 3ZQV	ad. No. 4, 2010
	am. No. 2, 2011
Note to s. 3ZQV(5)	am. No. 2, 2011
s. 3ZQW	ad. No. 4, 2010
	am. No. 2, 2011
Subdivision B	
Heading to Subdiv. B of Div. 4C of Part IAA	rs. No. 2, 2011
Heading to s. 3ZQX	rs. No. 2, 2011
Subhead. to s. 3ZQX(1)	ad. No. 2, 2011
s. 3ZQX	ad. No. 4, 2010
	am. No. 2, 2011
Heading to Subdiv. C of Div. 4C of Part IAA	rep. No. 2, 2011
s. 3ZQY	ad. No. 4, 2010
	am. No. 2, 2011
s. 3ZQZ	ad. No. 4, 2010
	rep. No. 2, 2011
Heading to Subdiv. D of Div. 4C of Part IAA	rep. No. 2, 2011
Heading to s. 3ZQZA	rs. No. 2, 2011
s. 3ZQZA	ad. No. 4, 2010
	am. No. 2, 2011
s. 3ZQZB	ad. No. 4, 2010
	rs. No. 2, 2011
Division 5	

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Endnote 4—Amendment history

Provision affected	How affected
ss. 3ZR–3ZU	ad. No. 65, 1994
s. 3ZV	ad. No. 65, 1994
	rep. No. 4, 2010
s. 3ZW	ad. No. 65, 1994
	am. No. 141, 1994
	rs. No. 4, 2010
	am. No. 2, 2011
s. 3ZX	ad. No. 65, 1994
s. 3ZY	ad. No. 65, 1994
	rep. No. 96, 1998
Part IAAA heading	ad No 116, 2014
Division 1 heading	ad No 116, 2014
s 3ZZAA	ad No 116, 2014
s 3ZZAB	ad No 116, 2014
s 3ZZAC	ad No 116, 2014
s 3ZZAD	ad No 116, 2014
s 3ZZAE	ad No 116, 2014
s 3ZZAF	ad No 116, 2014
Division 2 heading	ad No 116, 2014
Subdivision A heading	ad No 116, 2014
s 3ZZBA	ad No 116, 2014
s 3ZZBB	ad No 116, 2014
s 3ZZBC	ad No 116, 2014
s 3ZZBD	ad No 116, 2014
s 3ZZBE	ad No 116, 2014
Subdivision B heading	ad No 116, 2014
s 3ZZBF	ad No 116, 2014
s 3ZZBG	ad No 116, 2014
Subdivision C heading	ad No 116, 2014
s 3ZZBH	ad No 116, 2014
s 3ZZBI	ad No 116, 2014

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision D heading	ad No 116, 2014
s 3ZZBJ	ad No 116, 2014
Division 3 heading	ad No 116, 2014
s 3ZZCA	ad No 116, 2014
s 3ZZCB	ad No 116, 2014
s 3ZZCC	ad No 116, 2014
s 3ZZCD	ad No 116, 2014
s 3ZZCE	ad No 116, 2014
s 3ZZCF	ad No 116, 2014
s 3ZZCG	ad No 116, 2014
s 3ZZCH	ad No 116, 2014
s 3ZZCI	ad No 116, 2014
Division 4 heading	ad No 116, 2014
s 3ZZDA	ad No 116, 2014
s 3ZZDB	ad No 116, 2014
s 3ZZDC	ad No 116, 2014
Division 5 heading	ad No 116, 2014
Subdivision A heading	ad No 116, 2014
s 3ZZEA	ad No 116, 2014
Subdivision B heading	ad No 116, 2014
s 3ZZEB	ad No 116, 2014
s 3ZZEC	ad No 116, 2014
Division 6 heading	ad No 116, 2014
s 3ZZFA	ad No 116, 2014
s 3ZZFB	ad No 116, 2014
s 3ZZFC	ad No 116, 2014
s 3ZZFD	ad No 116, 2014
s 3ZZFE	ad No 116, 2014
Division 7 heading	ad No 116, 2014
s 3ZZGA	ad No 116, 2014
s 3ZZGB	ad No 116, 2014

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Provision affected	How affected
s 3ZZGC	ad No 116, 2014
s 3ZZGD	ad No 116, 2014
s 3ZZGE	ad No 116, 2014
s 3ZZGF	ad No 116, 2014
s 3ZZGG	ad No 116, 2014
s 3ZZGH	ad No 116, 2014
Division 8 heading	ad No 116, 2014
s 3ZZHA	ad No 116, 2014
Division 9 heading	ad No 116, 2014
s 3ZZIA	ad No 116, 2014
s 3ZZIB	ad No 116, 2014
Part IA	
Heading to Part IA	ad. No. 84, 1960
s. 4	rs. No. 11, 1995
	rep. No. 24, 2001
Subhead. to s. 4AAA(4)	rep. No. 136, 2005
s. 4AAA	ad. No. 22, 2001
	am. No. 136, 2005; No. 13, 2013
Note 2 to s. 4AAA(1)	am. No. 46, 2011
s. 4AAB	ad. No. 22, 2001
Note 2 to s. 4AAB(1)	am. No. 46, 2011
s. 4A	ad. No. 120, 1987
s. 4AA	ad. No. 164, 1992
	am. No. 20, 1997; No. 167, 2012
s. 4AB	ad. No. 164, 1992
	am. No. 54, 1998; No. 55, 2001; No. 103, 2010
s. 4B	ad. No. 120, 1987
	am. No. 108, 1989; No. 28, 1991; No. 164, 1992
s. 4C	ad. No. 120, 1987
s. 4D	ad. No. 120, 1987
	am. No. 24, 2001

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Provision affected	How affected
ss. 4E–4H	ad. No. 120, 1987
s. 4J	ad. No. 120, 1987
	am. No. 108, 1989; No. 164, 1992; Nos. 65 and 91, 2002; No. 41, 2003; No. 144, 2005
s. 4JA	ad. No. 41, 2003
s. 4K	ad. No. 120, 1987
s. 4L	ad. No. 28, 1991
ss. 4M, 4N	ad. No. 11, 1995
s. 5	am. No. 9, 1926; No. 84, 1960; No. 153, 1982; No. 120, 1987
	rep. No. 24, 2001
s. 6	am. No. 84, 1960; No. 67, 1982; No. 120, 1987; No. 73, 2008
s. 7	am. No. 9, 1926; No. 84, 1960; No. 120, 1987; No. 11, 1995; No. 96, 1998
	rep. No. 24, 2001
s. 7A	ad. No. 54, 1920
	am. No. 84, 1960; No. 93, 1966; No. 216, 1973; No. 67, 1982; No. 120, 1987; No. 108, 1989
	rep. No. 24, 2001
s. 8	rep. No. 65, 1994
s. 8A	ad. No. 9, 1926
	am. No. 84, 1960; No. 76, 1986; No. 120, 1987
	rep. No. 65, 1994
s. 9	am. No. 9, 1926; No. 84, 1960; No. 67, 1982; No. 120, 1991; No. 73, 2008
s. 9A	ad. No. 120, 1991
	am. No. 152, 1997; No. 86, 2002; No. 8, 2005
s. 9B	ad. No. 120, 1991
	am. No. 86, 2002; No. 8, 2005
s. 10	am. No. 9, 1926; No. 84, 1960; No. 168, 1986; No. 120, 1987; No. 28, 1991
	rep. No. 65, 1994
ss. 10A–10E	ad. No. 140, 1991

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 65, 1994
s. 11	am. No. 84, 1960
	rep. No. 120, 1987
s. 12	am. No. 80, 1950; No. 67, 1982
	rep. No. 120, 1987
s. 12A	ad. No. 9, 1926
	am. No. 84, 1960; No. 93, 1966; No. 33, 1973; No. 67, 1982
	rep. No. 120, 1987
s. 14	am. No. 9, 1926; No. 67, 1982
	rep. No. 24, 2001
s. 15	am. No. 67, 1982; No. 73, 2008
s. 15AA	ad. No. 104, 2004
	am. No. 124, 2004; No. 171, 2006; No. 127, 2010; No 116, 2014
Note to s. 15AA(4)	am. No. 127, 2010
s. 15AB	ad. No. 171, 2006
	am. No. 101, 2012
s. 15A (formerly s. 18A)	am. No. 98, 1993; No. 60, 1996; No. 49, 1998; No. 123, 1999; No. 151, 2006; No. 106, 2009; No. 46, 2011; No. 24, 2012
s. 15B (formerly s. 21)	am. No. 164, 1992; No. 4, 2010
s. 15C (formerly s. 21A)	am. No. 164, 1992
s. 15D (formerly s. 21C)	rep. No. 24, 2001
s. 15E (formerly s. 22)	
s. 15F (formerly s. 23)	
s. 15FA	ad. No. 96, 1998
	rep. No. 22, 2001
Part IAB	
Heading to Part 1AB	rep. No. 136, 2001
Heading to Part IAB	ad. No. 136, 2001
	rs. No. 3, 2010
Part 1AB	ad. No. 28, 1996
Part IAB	rs. No. 3, 2010

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Provision affected	How affected
Division 1	
s. 15G	ad. No. 28, 1996
	am. Nos. 135 and 136, 2001; No. 125, 2002; No. 86, 2006
	rs. No. 3, 2010
s. 15GA	ad. No. 136, 2001
	rs. No. 3, 2010
s. 15GB	ad. No. 3, 2010
s. 15GC	ad. No. 3, 2010
	am. No. 194, 2012
s. 15GD	ad. No. 3, 2010
s. 15GE	ad. No. 3, 2010
	am. No. 42, 2010
ss. 15GF, 15GG	ad. No. 3, 2010
Division 2	
Subdivision A	
s. 15GH	ad. No. 3, 2010
s. 15GI	ad. No. 3, 2010
	am. No. 194, 2012
Note 1 to s. 15GI(2)	ad. No. 194, 2012
Note 2 to s. 15GI(2)	ad. No. 194, 2012
s. 15GJ	ad. No. 3, 2010
s. 15GK	ad. No. 3, 2010
	am. No. 194, 2012
s. 15GL	ad. No. 3, 2010
s. 15GM	ad. No. 3, 2010
s. 15GN	ad. No. 3, 2010
	am. No. 194, 2012
Subdivision B	
s. 15GO	ad. No. 3, 2010
s. 15GP	ad. No. 3, 2010
s. 15GQ	ad. No. 3, 2010

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Endnote 4—Amendment history

Provision affected	How affected
	am. No. 194, 2012
Note 1 to s. 15GQ(2)	ad. No. 194, 2012
Note 2 to s. 15GQ(2)	ad. No. 194, 2012
s. 15GR	ad. No. 3, 2010
s. 15GS	ad. No. 3, 2010
Subdivision C	
s. 15GT	ad. No. 3, 2010
s. 15GU	ad. No. 3, 2010
s. 15GV	ad. No. 3, 2010
	am. No. 194, 2012
Note 1 to s. 15GV(2)	ad. No. 194, 2012
Note 2 to s. 15GV(2)	ad. No. 194, 2012
s. 15GW	ad. No. 3, 2010
s. 15GX	ad. No. 3, 2010
Subdivision D	
ss. 15GY, 15GZ	ad. No. 3, 2010
s. 15H	ad. No. 28, 1996
	rs. No. 136, 2001
	am. Nos. 62 and 64, 2004
	rs. No. 3, 2010
Div. 2A of Part IAB	ad. No. 136, 2001
	rep. No. 3, 2010
Division 3	
Subdivision A	
s. 15HA	ad. No. 136, 2001
	rs. No. 3, 2010
Heading to s. 15HB	rs. No. 64, 2004; No. 3, 2010
s. 15HB	ad. No. 136, 2001
	am. Nos. 64 and 127, 2004; No. 129, 2005; No. 9, 2006
	rs. No. 3, 2010
s. 15HC	ad. No. 3, 2010

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Provision affected	How affected
s. 15HD	ad. No. 3, 2010
	am. No. 194, 2012
s. 15HE	ad. No. 3, 2010
s. 15HF	ad. No. 3, 2010
s. 15HG	ad. No. 3, 2010
Subdivision B	
ss. 15HH–15HJ	ad. No. 3, 2010
Division 4	
Subhead. to s. 15HK(2)	ad. No. 194, 2012
Subhead. to s. 15HK(3)	ad. No. 194, 2012
s. 15HK	ad. No. 3, 2010
	am. No. 194, 2012
Note to s. 15HK(2)	ad. No. 194, 2012
Note to s. 15HK	am. No. 194, 2012
Subhead. to s. 15HL(2)	ad. No. 194, 2012
Subhead. to s. 15HL(3)	ad. No. 194, 2012
s. 15HL	ad. No. 3, 2010
	am. No. 194, 2012
Note to s. 15HL(2)	ad. No. 194, 2012
Note to s. 15HL(3)	am. No. 194, 2012
s. 15HM	ad. No. 3, 2010
s. 15HN	ad. No. 3, 2010
s. 15HO	ad. No. 3, 2010
s. 15HP	ad. No. 3, 2010
s. 15HQ	ad. No. 3, 2010
s. 15HR	ad. No. 3, 2010
s. 15HS	ad. No. 3, 2010
s. 15HT	ad. No. 3, 2010
s. 15HU	ad. No. 3, 2010
s. 15HV	ad. No. 3, 2010
s. 15HW	ad. No. 3, 2010

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Provision affected	How affected
s. 15HX	ad. No. 3, 2010
s. 15HY	ad. No. 3, 2010
Division 5	
s. 15HZ	ad. No. 3, 2010
s. 15I	ad. No. 28, 1996
	rs. No. 136, 2001
	rep. No. 3, 2010
ss. 15IA–15ID	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15J	ad. No. 28, 1996
	am. No. 9, 2000
	rs. No. 136, 2001
	am. No. 125, 2002; No. 86, 2006
	rs. No. 3, 2010
Part IABA	
Part IABA	ad. No. 194, 2012
Division 1	
s. 15JA	ad. No. 194, 2012
s. 15JB	ad. No. 194, 2012
s. 15JC	ad. No. 194, 2012
s. 15JD	ad. No. 194, 2012
Division 2	
s. 15JE	ad. No. 194, 2012
s. 15JF	ad. No. 194, 2012
s. 15JG	ad. No. 194, 2012
s. 15JH	ad. No. 194, 2012
s. 15JI	ad. No. 194, 2012
s. 15JJ	ad. No. 194, 2012
s. 15JK	ad. No. 194, 2012
s. 15JL	ad. No. 194, 2012
s. 15JM	ad. No. 194, 2012

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Provision affected	How affected
Division 3	
s. 15JN	ad. No. 194, 2012
s. 15JO	ad. No. 194, 2012
s. 15JP	ad. No. 194, 2012
Division 4	
s. 15JQ	ad. No. 194, 2012
s. 15JR	ad. No. 194, 2012
Division 5	
s. 15JS	ad. No. 194, 2012
Division 6	
s. 15JT	ad. No. 194, 2012
Part IAC	
Part IAC	ad. No. 136, 2001
	rs. No. 3, 2010
Division 1	
s. 15K	ad. No. 28, 1996
	rs. No. 3, 2010
Division 2	
ss. 15KA–15KH	ad. No. 3, 2010
Division 3	
ss. 15KI–15KO	ad. No. 3, 2010
Division 4	
ss. 15KP–15KW	ad. No. 3, 2010
Division 5	
s 15KX	ad. No. 3, 2010
s 15KY	ad No 3, 2010
	am No 108, 2014
s 15KZ	ad No 3, 2010
s. 15L	ad. No. 28, 1996
	rs. No. 3, 2010
s. 15LA	ad. No. 3, 2010

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Endnote 4—Amendment history

Provision affected	How affected
Division 6	
Subdivision A	
s 15LB	ad No. 3, 2010
s 15LC	ad No. 3, 2010
	am No 30, 2014
Subdivision B	
ss. 15LD–15LG	ad. No. 3, 2010
Division 7	
s. 15LH	ad. No. 3, 2010
	am No 30, 2014
Part IACA	
Part IACA	ad. No. 3, 2010
Division 1	
s. 15M	ad. No. 28, 1996
	am. No. 136, 2001
	rs. No. 3, 2010
ss. 15MA–15MC	ad. No. 3, 2010
Division 2	
ss. 15MD–15MU	ad. No. 3, 2010
Division 3	
s. 15MW	ad. No. 3, 2010
Division 4	
s. 15MX	ad. No. 3, 2010
s. 15N	ad. No. 28, 1996
	am. Nos. 135 and 136, 2001; No. 125, 2002; No. 86, 2006; No. 33, 2009
	rep. No. 3, 2010
Note to s. 15N(4)	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15NA	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15O	ad. No. 28, 1996

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Provision affected	How affected
	rep. No. 3, 2010
s. 15OA	ad. No. 136, 2001
	am. No. 125, 2002; No. 86, 2006
	rep. No. 3, 2010
ss. 15OB, 15OC	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15P	ad. No. 28, 1996
	am. No. 136, 2001
	rep. No. 3, 2010
s. 15PA	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15Q	ad. No. 28, 1996
	am. No. 136, 2001; No. 125, 2002; No. 86, 2006; No. 33, 2009
	rep. No. 3, 2010
s. 15R	ad. No. 28, 1996
	am. No. 9, 2000; No. 135, 2001
	rs. No. 136, 2001
	am. No. 125, 2002; No. 86, 2006
	rep. No. 3, 2010
Heading to s. 15S	rs. No. 136, 2001
	rep. No. 3, 2010
s. 15S	ad. No. 28, 1996
	am. No. 9, 2000; No. 136, 2001
	rep. No. 3, 2010
ss. 15T, 15U	ad. No. 28, 1996
	am. Nos. 135 and 136, 2001; No. 125, 2002; No. 86, 2006
	rep. No. 3, 2010
ss. 15UA, 15UB	ad. No. 136, 2001
	am. No. 125, 2002; No. 86, 2006
	rep. No. 3, 2010
ss. 15UC, 15UD	ad. No. 136, 2001

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 3, 2010
ss. 15V–15X	ad. No. 28, 1996
	am. No. 24, 2001
	rep. No. 3, 2010
s. 15XA	ad. No. 136, 2001
	am. No. 125, 2002; No. 113, 2003; Nos. 87 and 100, 2005; No. 86, 2006; No. 33, 2009
	rep. No. 3, 2010
ss. 15XB–15XF	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15XG	ad. No. 136, 2001
	am. No. 87, 2005
	rep. No. 3, 2010
s. 15XH	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15XI	ad. No. 136, 2001
	am. No. 87, 2005
	rep. No. 3, 2010
ss. 15XJ–15XM	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15XMA	ad. No. 87, 2005
	rep. No. 3, 2010
ss. 15XN–15XU	ad. No. 136, 2001
	rep. No. 3, 2010
s. 15UXA	ad. No. 136, 2001
	rep. No. 3, 2010
ss. 15XV, 15XW	ad. No. 136, 2001
	rep. No. 3, 2010
Part IAD	
Heading to Part IAD	rs. No. 74, 2013
Part IAD	ad. No. 136, 2001

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Endnote 4—Amendment history

Provision affected	How affected
Division 1	
Subhead. to s. 15Y(1)	ad. No. 74, 2013
s. 15Y	ad. No. 136, 2001
	am. No. 127, 2004; No. 96, 2005; No. 7, 2007; No. 42, 2010; Nos. 6 and 74, 2013
s. 15YA	ad. No. 136, 2001
	am. No. 74, 2013
s. 15YAA	ad. No. 74, 2013
s. 15YAB	ad. No. 74, 2013
Division 2	
s. 15YB	ad. No. 136, 2001
	am. No. 74, 2013
s. 15YC	ad. No. 136, 2001
	am. No. 74, 2013
S. 15YD	ad. No. 136, 2001
Division 3	
s. 15YE	ad. No. 136, 2001
	am. No. 74, 2013
s. 15YF	ad. No. 136, 2001
	am. No. 74, 2013
Heading to s. 15YG	am. No. 74, 2013
s. 15YG	ad. No. 136, 2001
	am. No. 74, 2013
Heading to s. 15YH	am. No. 74, 2013
s. 15YH	ad. No. 136, 2001
	am. No. 74, 2013
Division 4	
Heading to Div. 4 of Part IAD	am. No. 74, 2013
s. 15YI	ad. No. 136, 2001
	am. No. 74, 2013

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Endnote 4—Amendment history

Provision affected	How affected
Note to s. 15YI(1)	am. No. 74, 2013
s. 15YJ	ad. No. 136, 2001
	am. No. 74, 2013
s. 15YK	ad. No. 136, 2001
	am. No. 74, 2013
s. 15YL	ad. No. 136, 2001
	am. No. 74, 2013
Division 5	
s. 15YM	ad. No. 136, 2001
	am. No. 74, 2013
s. 15YN	ad. No. 136, 2001
	am. No. 74, 2013
Division 5A	
Div. 5A of Part IAD	ad. No. 74, 2013
s. 15YNA	ad. No. 74, 2013
s. 15YNB	ad. No. 74, 2013
s. 15YNC	ad. No. 74, 2013
s. 15YND	ad. No. 74, 2013
s. 15YNE	ad. No. 74, 2013
s. 15YNF	ad. No. 74, 2013
Division 6	
Heading to s. 15YO	am. No. 74, 2013
s. 15YO	ad. No. 136, 2001
	am. No. 74, 2013
s. 15YP	ad. No. 136, 2001
	rs. No. 74, 2013
Heading to s. 15YQ	am. No. 74, 2013
s. 15YQ	ad. No. 136, 2001
	am. No. 74, 2013
Heading to s. 15YR	am. No. 74, 2013
s. 15YR	ad. No. 136, 2001

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Provision affected	How affected
	am. No. 74, 2013
s. 15YS	ad. No. 136, 2001
s. 15YT	ad. No. 136, 2001
	rs. No. 42, 2010; No. 74, 2013
Part IAE	
Part IAE	ad. No. 136, 2005
s. 15YU	ad. No. 136, 2005
	am. No. 54, 2006; No. 3, 2007; No. 174, 2011; No 116, 2014
Note to s. 15YU(4)	ad. No. 174, 2011
ss. 15YV–15YZ	ad. No. 136, 2005
ss. 15YZA–15YZF	ad. No. 136, 2005
Part IB	
Heading to Part 1B	ad. No. 4, 1990
	rep. No. 41, 2003
Heading to Part IB	ad. No. 41, 2003
Division 1	
Div. 1 of Part 1B	ad. No. 4, 1990
s. 16	am. No. 93, 1966; No. 67, 1982
	rep. No. 120, 1987
	ad. No. 4, 1990
	am. No. 123, 1991; No. 146, 1999; No. 106, 2009; No. 24, 2012; No. 74, 2013
s. 16AAA	ad. No. 74, 2013
Division 2	
Div. 2 of Part 1B	ad. No. 4, 1990
Heading to s. 16A	rs. No. 101, 2012
s. 16A	ad. No. 4, 1990
	am. No. 182, 1994; No. 41, 2003; No. 171, 2006; No. 144, 2008; No. 106, 2009; No. 101, 2012; No. 74, 2013
s. 16AA	ad. No. 101, 2012
s. 16AB	ad. No. 74, 2013

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Endnote 4—Amendment history

Provision affected	How affected
s. 16B	ad. No. 4, 1990
	am. No. 123, 1991
s. 16BA (formerly s. 21AA)	am. No. 73, 2008
ss. 16C, 16D	ad. No. 4, 1990
Division 3	
Div. 3 of Part 1B	ad. No. 4, 1990
ss. 16E, 16F	ad. No. 4, 1990
s. 16G	ad. No. 4, 1990
	rep. No. 141, 2002
s. 17	am. No. 84, 1960; Nos. 67 and 80, 1982
	rep. No. 4, 1990
s. 17A	ad. No. 67, 1982
	am. No. 4, 1990; No. 164, 1992
s. 17B	ad. No. 164, 1992
	am. No. 137, 2000
s. 18	am. No. 9, 1926; No. 84, 1960
s. 18A	ad. No. 84, 1960
	am. No. 67, 1982 (as am. by No. 193, 1985); No. 195, 1985; No. 73, 1987; No. 4, 1990
Renumbered s. 15A	No. 4, 1990
s. 19	am. No. 80, 1950; No. 84, 1960
	rs. No. 67, 1982; No. 4, 1990
	am. No. 123, 1991
s. 19A	ad. No. 84, 1960
	am. No. 33, 1973; No. 67, 1982
	rs. No. 4, 1990
s. 19AA	ad. No. 4, 1990
Division 4	
Div. 4 of Part 1B	ad. No. 4, 1990
ss. 19AB, 19AC	ad. No. 4, 1990
	rs. No. 123, 1991

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Provision affected	How affected
ss. 19AD, 19AE	ad. No. 4, 1990
	rs. No. 123, 1991
	am. No. 11, 1995
s. 19AF	ad. No. 4, 1990
s. 19AG	ad. No. 4, 1990
	rep. No. 141, 2002
	ad. No. 104, 2004
s. 19AH	ad. No. 4, 1990
	am. No. 123, 1991
ss. 19AJ, 19AK	ad. No. 4, 1990
Division 5	
Div. 5 of Part 1B	ad. No. 4, 1990
s. 19AL	ad. No. 4, 1990
	rs. No. 24, 2012
s. 19AM	ad. No. 4, 1990
	rs. No. 24, 2012
s. 19AMA	ad. No. 24, 2012
s. 19AN	ad. No. 4, 1990
	am. No. 24, 2012
s. 19AP	ad. No. 4, 1990
	am. No. 24, 2012
s. 19AQ	ad. No. 4, 1990
s. 19AR	ad. No. 4, 1990
	am. No. 141, 2002
s. 19AS	ad. No. 4, 1990
	am. No. 41, 2003
ss. 19AT–19AZ	ad. No. 4, 1990
s. 19AZA	ad. No. 4, 1990
	am. No. 164, 1992; No. 24, 2001
ss. 19AZB–19AZD	ad. No. 4, 1990
s. 19B	ad. No. 84, 1960

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Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 67, 1982
	am. No. 4, 1990 (as am. by No. 41, 2003); No. 182, 1994; No. 171, 2006; No. 73, 2008
s. 20	am. No. 9, 1926
	rs. No. 67, 1982
	am. No. 108, 1989; No. 4, 1990; No. 164, 1992; No. 182, 1994; No. 104, 2004; No. 73, 2008
s. 20A	ad. No. 84, 1960
	am. No. 33, 1973
	rs. No. 67, 1982
	am. No. 80, 1982; No. 4, 1990; No. 164, 1992; No. 182, 1994 (as am. by No. 43, 1996); No. 73, 2008
s. 20AA	ad. No. 67, 1982
	am. No. 80, 1982; No. 114, 1983; No. 10, 1984; No. 73, 2008
s. 20AB	ad. No. 67, 1982
	am. No. 193, 1985; No. 4, 1990; No. 104, 2004; No. 73, 2008
s. 20AC	ad. No. 67, 1982
	am. No. 80, 1982; No. 4, 1990; No. 164, 1992; No. 73, 2008
Division 6	
Div. 6 of Part 1B	ad. No. 4, 1990
s. 20B	ad. No. 84, 1960
	am. No. 33, 1973; No. 67, 1982
	rs. No. 4, 1990
ss. 20BA–20BH	ad. No. 4, 1990
s. 20BI	ad. No. 4, 2010
Division 7	
Div. 7 of Part 1B	ad. No. 4, 1990
ss. 20BJ–20BN	ad. No. 4, 1990
s. 20BP	ad. No. 4, 1990
Division 8	
Div. 8 of Part 1B	ad. No. 4, 1990

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Provision affected	How affected
ss. 20BQ, 20BR	ad. No. 4, 1990
Division 9	
Div. 9 of Part 1B	ad. No. 4, 1990
ss. 20BS–20BW	ad. No. 4, 1990
s. 20BX	ad. No. 4, 1990
	am. No. 164, 1992
s. 20BY	ad. No. 4, 1990
Division 10	
Heading to Div. 10 of Part 1B	ad. No. 4, 1990
s. 20C	ad. No. 84, 1960
	am. No. 67, 1982; No. 73, 2008
s. 21	am. No. 9, 1926; No. 67, 1982
Renumbered s. 15B	No. 4, 1990
s. 21A	ad. No. 9, 1926
	am. No. 33, 1973; No. 67, 1982
Renumbered s. 15C	No. 4, 1990
s. 21AA	ad. No. 67, 1982
	am. Nos. 91 and 114, 1983; No. 4, 1990
Renumbered s. 16BA	No. 4, 1990
s. 21B	ad. No. 9, 1926
	rs. No. 84, 1960
	am. No. 33, 1973; No. 67, 1982; No. 4, 1990 (as am. by No. 41, 2003); No. 6, 2013
s. 21C	ad. No. 9, 1926
Renumbered s. 15D	No. 4, 1990
s. 21D	ad. No. 84, 1960
	am. No. 4, 1990
s. 21E	ad. No. 4, 1990
	am. No. 86, 2002; No. 3, 2010
s. 21F	ad. No. 4, 1990
	am. No. 146, 1999

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Endnote 4—Amendment history

Provision affected	How affected
s. 22	am. No. 67, 1982
Renumbered s. 15E	No. 4, 1990
s. 22	ad. No. 123, 1991
	am. No. 86, 2002; Nos. 7 and 129, 2005; No. 5, 2011
s. 22A	ad. No. 123, 1991
	am. No. 86, 2002; No. 129, 2005
Part IC	
Part IC	ad. No. 59, 1991
Division 1	
Div. 1 of Part IC	ad. No. 136, 2001
s. 23	am. No. 84, 1960; No. 67, 1982
Renumbered s. 15F	No. 4, 1990
s. 23	ad. No. 136, 2001
s. 23A	ad. No. 59, 1991
	am No 136, 2001
s. 23AA	ad. No. 164, 1992
	rs. No. 136, 2001
s. 23B	ad. No. 59, 1991
	am. No. 96, 1998; No. 136, 2001; No. 41, 2003; Nos. 64 and 104, 2004; No. 136, 2005; No. 127, 2010
Division 2	
Heading to Div. 2 of Part IC	ad. No. 136, 2001
Note to Div. 2 of Part IC	ad. No. 136, 2001
Subdivision A	
Heading to Subdiv. A of Div. 2 of Part IC	ad. No. 127, 2010
Heading to s. 23C	rs. No. 104, 2004; No. 127, 2010
Subhead. to s. 23C(8)	ad. No. 127, 2010
s. 23C	ad. No. 59, 1991

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Provision affected	How affected
	am. No. 96, 1998; Nos. 37 and 136, 2001; No. 41, 2003; No. 104, 2004; No. 127, 2010
Note to s. 23C(1)	ad. No. 127, 2010
Note to s. 23C(3)	ad. No. 136, 2001
	rep. No. 127, 2010
ss. 23CA, 23CB	ad. No. 104, 2004
	rep. No. 127, 2010
Heading to s. 23D	rs. No. 104, 2004; No. 127, 2010
s. 23D	ad. No. 59, 1991
	am. No. 136, 2001; No. 104, 2004
	rs. No. 127, 2010
s. 23DA	ad. No. 104, 2004
	rs. No. 127, 2010
Subdivision B	
Subdiv. B of Div. 2 of Part IC	ad. No. 127, 2010
s 23DB	ad. No. 127, 2010
	am No 116, 2014
s 23DC	ad. No. 127, 2010
s 23DD	ad. No. 127, 2010
s 23DE	ad. No. 127, 2010
s 23DF	ad. No. 127, 2010
Subdivision C	
Subdiv. C of Div. 2 of Part IC	ad. No. 127, 2010
s. 23E	ad. No. 59, 1991
	am. No. 136, 2001; No. 104, 2004
	rs. No. 127, 2010
Division 3	
Heading to Div. 3 of Part IC	ad. No. 136, 2001

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Endnote 4—Amendment history

Provision affected	How affected
Note to Div. 3 of Part IC	ad. No. 136, 2001
Heading to s. 23F	rs. No. 136, 2001
s. 23F	ad. No. 59, 1991
	am. No. 3, 1995; No. 136, 2001
ss. 23G, 23H	ad. No. 59, 1991
	am. No. 136, 2001
s. 23J	ad. No. 59, 1991
ss. 23K, 23L	ad. No. 59, 1991
	am. No. 136, 2001
s. 23M	ad. No. 59, 1991
	rs. No. 136, 2001
s. 23N	ad. No. 59, 1991
	am. No. 136, 2001
s. 23P	ad. No. 59, 1991
	rs. No. 136, 2001
s. 23Q	ad. No. 59, 1991
	am. No. 136, 2001
s. 23R	ad. No. 59, 1991
	rep. No. 136, 2001
ss. 23S, 23T	ad. No. 59, 1991
s. 23U	ad. No. 59, 1991
	am. No. 136, 2001
s. 23V	ad. No. 59, 1991
	am. No. 13, 2000; No. 136, 2001
s. 23W	ad. No. 59, 1991
Part ID	
Heading to Part 1D	rep. No. 41, 2003
Heading to Part ID	ad. No. 41, 2003
Part 1D	ad. No. 96, 1998
Outline to Part 1D	rs. No. 22, 2001

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Provision affected	How affected
Outline to Part ID	am. No. 130, 2006; No. 7, 2012
Division 1	
s. 23WA	ad. No. 96, 1998
	am. No. 22, 2001 (as am. by No. 63, 2002); No. 41, 2003; No. 64, 2004; No. 130, 2006; No. 144, 2008; No. 106, 2009; Nos. 7 and 24, 2012
s. 23WB	ad. No. 96, 1998
	am. No. 22, 2001
Division 2	
Heading to Div. 2 of Part 1D	rs. No. 22, 2001
s. 23WC	ad. No. 96, 1998
	am. No. 24, 2012
s. 23WCA	ad. No. 96, 1998
	am. No. 41, 2003
Division 3	
Heading to Div. 3 of Part 1D	rs. No. 22, 2001
s. 23WD	ad. No. 96, 1998
	am. No. 41, 2003
Note to s. 23WD(3)	am. No. 41, 2003
Note to s. 23WD(4)	am. No. 41, 2003; No. 104, 2004
s. 23WE	ad. No. 96, 1998
s. 23WF	ad. No. 96, 1998
	am. Nos. 7 and 24, 2012
s. 23WG	ad. No. 96, 1998
	am. No. 24, 2012
s. 23WH	ad. No. 96, 1998
s. 23WI	ad. No. 96, 1998
	am. No. 22, 2001; No. 171, 2006; No. 7, 2012
Subhead. to s. 23WJ(2)	am. No. 22, 2001
s. 23WJ	ad. No. 96, 1998

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Endnote 4—Amendment history

Provision affected	How affected
	am. No. 22, 2001; No. 130, 2006; Nos. 7 and 24, 2012
s. 23WK	ad. No. 96, 1998
s. 23WL	ad. No. 96, 1998
Note to s. 23WL(2) Renumbered Note 1	No. 7, 2012
Note 2 to s. 23WL(2)	ad. No. 7, 2012
s. 23WLA	ad. No. 96, 1998
Division 4	
Heading to Div. 4 of Part 1D	rs. No. 22, 2001
Heading to Div. 4 of Part ID	rs. No. 24, 2012
Heading to s. 23WM	rs. No. 24, 2012
s. 23WM	ad. No. 96, 1998
	am. No. 41, 2003; Nos. 7 and 24, 2012
Note to s. 23WM(3)	am. No. 41, 2003
Note to s. 23WM(4)	am. No. 41, 2003; No. 104, 2004
Heading to s. 23WN	rs. No. 24, 2012
s. 23WN	ad. No. 96, 1998
	am. No. 24, 2012
Heading to s. 23WO	rs. No. 24, 2012
s. 23WO	ad. No. 96, 1998
	am. No. 171, 2006; No. 24, 2012
Heading to s. 23WP	rs. No. 24, 2012
s. 23WP	ad. No. 96, 1998
	am. No. 24, 2012
Division 5	
Heading to Div. 5 of Part 1D	rs. No. 22, 2001
Subdivision A	
s. 23WQ	ad. No. 96, 1998
s. 23WR	ad. No. 96, 1998

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Provision affected	How affected
	am. Nos. 7 and 24, 2012
Subdivision B	
s. 23WS	ad. No. 96, 1998
	am. No. 7, 2012
s. 23WT	ad. No. 96, 1998
	am. No. 22, 2001; No. 171, 2006; No. 7, 2012
s. 23WU	ad. No. 96, 1998
	am. No. 7, 2012
s. 23WV	ad. No. 96, 1998
s. 23WW	ad. No. 96, 1998
s. 23WX	ad. No. 96, 1998
	am. No. 22, 2001
s. 23WY	ad. No. 96, 1998
Subdivision C	
s. 23XA	ad. No. 96, 1998
	am. No. 7, 2012
s. 23XB	ad. No. 96, 1998
	am No 31, 2014
s. 23XC	ad. No. 96, 1998
	am No 31, 2014
s. 23XD	ad. No. 96, 1998
	am No 31, 2014
s. 23XE	ad. No. 96, 1998
s. 23XF	ad. No. 96, 1998
s. 23XG	ad. No. 96, 1998
	am. No. 24, 2001
Subdivision D	
ss. 23XGA–23XGC	ad. No. 96, 1998
s. 23XGD	ad. No. 96, 1998
	am. No. 41, 2003; No. 104, 2004; No. 127, 2010
Subdivision E	

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Endnote 4—Amendment history

Provision affected	How affected
s. 23XH	ad. No. 96, 1998
	am. No. 24, 2001
Division 6	
Heading to Div. 6 of Part 1D	rs. No. 22, 2001
Subdivision A	
s. 23XI	ad. No. 96, 1998
ss. 23XIA, 23XIB	ad. No. 96, 1998
ss. 23XJ, 23XK	ad. No. 96, 1998
s. 23XL	ad. No. 96, 1998
	rs. No. 22, 2001
	am. No. 24, 2012
Subdivision B	
s. 23XM	ad. No. 96, 1998
	am. No. 22, 2001; No. 24, 2012
Subdivision C	
s. 23XN	ad. No. 96, 1998
	am. No. 24, 2012
s. 23XO	ad. No. 96, 1998
	am. No. 22, 2001
Subdivision D	
Heading to s. 23XP	am. No. 22, 2001
s. 23XP	ad. No. 96, 1998
	am. No. 22, 2001
ss. 23XQ–23XS	ad. No. 96, 1998
s. 23XSA	ad. No. 130, 2006
Subdivision E	
s. 23XT	ad. No. 96, 1998
Subdivision F	
s. 23XU	ad. No. 96, 1998
	rs. No. 24, 2012

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Provision affected	How affected
s. 23XUA	ad. No. 96, 1998
	am. No. 24, 2012
s. 23XV	ad. No. 96, 1998
s. 23XW	ad. No. 96, 1998
	rs. No. 24, 2012
s. 23XWA	ad. No. 22, 2001
Division 6A	
Div. 6A of Part 1D	ad. No. 22, 2001
ss. 23XWB–23XWE	ad. No. 22, 2001
	am. No. 24, 2012
s. 23XWF	ad. No. 22, 2001
s. 23XWG	ad. No. 22, 2001
	am. No. 24, 2012
s. 23XWH	ad. No. 22, 2001
s. 23XWI	ad. No. 22, 2001
s. 23XWJ	ad. No. 22, 2001
	am. No. 130, 2006
s. 23XWK	ad. No. 22, 2001
s. 23XWL	ad. No. 22, 2001
	am. No. 24, 2012
ss. 23XWM, 23XWN	ad. No. 22, 2001
s. 23XWNA	ad. No. 24, 2012
s. 23XWO	ad. No. 22, 2001
	am. No. 24, 2012
ss. 23XWOA, 23XWOB	ad. No. 24, 2012
s. 23XWP	ad. No. 22, 2001
	am. No. 24, 2012
Division 6B	
Div. 6B of Part 1D	ad. No. 22, 2001
s. 23XWQ	ad. No. 22, 2001
	am. No. 24, 2012

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Endnote 4—Amendment history

Provision affected	How affected
s. 23XWR	ad. No. 22, 2001
	am. No. 130, 2006; Nos. 7 and 24, 2012
s. 23XWS	ad. No. 22, 2001
Note 1 to s. 23XWS	ad. No. 7, 2012
Note 2 to s. 23XWS	ad. No. 7, 2012
s. 23XWT	ad. No. 22, 2001
s. 23XWU	ad. No. 22, 2001
	am. No. 7, 2012
s. 23XWV	ad. No. 22, 2001
	am. No. 7, 2012
Division 7	
Subdivision A	
s. 23XX	ad. No. 96, 1998
	am. No. 22, 2001; No. 130, 2006
s. 23XY	ad. No. 96, 1998
	am. No. 22, 2001
Subdivision B	
s. 23XZ	ad. No. 96, 1998
s. 23YA	ad. No. 96, 1998
	am. No. 22, 2001
s. 23YB	ad. No. 96, 1998
Subdivision C	
Subdiv. C of Div. 7 of Part ID	ad. No. 7, 2012
s. 23YBA	ad. No. 7, 2012
Division 8	
s. 23YBB	ad. No. 7, 2012
s. 23YC	ad. No. 96, 1998
	am. No. 22, 2001
s. 23YD	ad. No. 96, 1998
	am. No. 22, 2001; No. 130, 2006

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Provision affected	How affected
ss. 23YDAA, 23YDAB	ad. No. 22, 2001
Division 8A	
Heading to Div. 8A of Part ID	rs. No. 130, 2006
Div. 8A of Part 1D	ad. No. 22, 2001
s. 23YDAC	ad. No. 22, 2001
	am. No. 130, 2006; No. 24, 2012
s. 23YDACA	ad. No. 130, 2006
s. 23YDAD	ad. No. 22, 2001
	am. No. 130, 2006
Heading to s. 23YDAE	am. No. 130, 2006
s. 23YDAE	ad. No. 22, 2001
	am. No. 130, 2006; No. 51, 2010; No. 24, 2012
s. 23YDAF	ad. No. 22, 2001
	am. No. 41, 2003; No. 136, 2005; No. 130, 2006
Heading to s. 23YDAG	am. No. 130, 2006
s. 23YDAG	ad. No. 22, 2001
	am. No. 130, 2006
Division 9	
s. 23YDA	ad. No. 96, 1998
	am. No. 24, 2012
s. 23YE	ad. No. 96, 1998
	am. No. 22, 2001
s. 23YF	ad. No. 96, 1998
	am. No. 22, 2001
Note 1 to s. 23YF(1)	ad. No. 7, 2012
Note 2 to s. 23YF(1)	ad. No. 7, 2012
Heading to s. 23YG	am. No. 22, 2001
s. 23YG	ad. No. 96, 1998
	am. No. 22, 2001; No. 24, 2012
Note to s. 23YG(2)	am. No. 22, 2001

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 24, 2012
Heading to s. 23YH	am. No. 22, 2001
s. 23YH	ad. No. 96, 1998
	am. No. 22, 2001
ss. 23YI, 23YJ	ad. No. 96, 1998
s. 23YJA	ad. No. 96, 1998
s. 23YK	ad. No. 96, 1998
s. 23YKA	ad. No. 7, 2012
s. 23YL	ad. No. 96, 1998
Note to s. 23YL	am. No. 24, 2001
s. 23YM	ad. No. 96, 1998
s. 23YN	ad. No. 96, 1998
	rs. No. 22, 2001
s. 23YO	ad. No. 96, 1998
	rs. No. 22, 2001
	am. Nos. 84 and 130, 2006; No. 51, 2010; No. 24, 2012
s. 23YP	ad. No. 96, 1998
	am. No. 24, 2001
	rs. No. 22, 2001
s. 23YPA	ad. No. 24, 2012
s. 23YQ	ad. No. 96, 1998
	am. No. 24, 2001
	rs. No. 22, 2001
	am. No. 24, 2012
Division 9A	
Div. 9A of Part ID	ad. No. 7, 2012
Subdivision A	
s. 23YQA	ad. No. 7, 2012
s. 23YQB	ad. No. 7, 2012
Subdivision B	
s. 23YQC	ad. No. 7, 2012

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Provision affected	How affected
s. 23YQD	ad. No. 7, 2012
Division 10	
Div. 10 of Part 1D	rep. No. 22, 2001
Div. 12 of Part 1D Renumbered Div. 10	No. 22, 2001
s. 23YQA	ad. No. 96, 1998
Renumbered s. 23YQE	No. 7, 2012
Heading to s. 23YR	am. No. 41, 2003
s. 23YR	ad. No. 96, 1998
Note to s. 23YR	am. No. 41, 2003
Heading to s. 23YS	am. No. 41, 2003
s. 23YS	ad. No. 96, 1998
	am. No. 41, 2003
s. 23YT	ad. No. 96, 1998
	rep. No. 22, 2001
s. 23YU	ad. No. 96, 1998
	am. No. 22, 2001
Division 11	
Div. 11 of Part 1D	rs. No. 22, 2001
s. 23YUA	ad. No. 22, 2001
	am. No. 41, 2003
s. 23YUB	ad. No. 22, 2001
	am. No. 7, 2012
s. 23YUC	ad. No. 22, 2001
	am. No. 24, 2012
s. 23YUD	ad. No. 22, 2001
	am. No. 41, 2003; No. 136, 2005; No. 130, 2006
s. 23YUDA	ad. No. 24, 2012
Division 11A	
Heading to Div. 11A of Part ID	rs. No. 125, 2004

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Endnote 4—Amendment history

Provision affected	How affected
Div. 11A of Part 1D	ad. No. 88, 2002
s. 23YUE	ad. No. 88, 2002
s. 23YUF	ad. No. 88, 2002
	am. No. 125, 2004; No. 100, 2005; No. 103, 2013
Heading to s. 23YUG	am. No. 130, 2006
ss. 23YUG, 23YUH	ad. No. 88, 2002
	am. No. 130, 2006
s. 23YUI	ad. No. 88, 2002
	am. No. 88, 2002; No. 130, 2006
s. 23YUJ	ad. No. 88, 2002
	am. No. 130, 2006
s. 23YUK	ad. No. 88, 2002
	am. No. 51, 2010; No. 136, 2012
Division 11B	
Div. 11B of Part ID	ad. No. 64, 2004
s. 23YUL	ad. No. 64, 2004
Div. 13 of Part 1D Renumbered Div. 12	No. 22, 2001
Div. 12 of Part 1D	rep. No. 103, 2013
s. 23YV	ad. No. 96, 1998
	am. No. 22, 2001; No. 70, 2008; No. 51, 2010
	rep. No. 103, 2013
Part IE	
Part IE	ad. No. 42, 2010
Division 1	
s. 23ZA	ad. No. 42, 2010
Division 2	
ss. 23ZB, 23ZC	ad. No. 42, 2010
Division 3	
s. 23ZD	ad. No. 42, 2010
Division 4	

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Provision affected	How affected
ss. 23ZE–23ZG	ad. No. 42, 2010
Part II	
s. 24	rs. No. 84, 1960
	am. No. 33, 1973; No. 67, 1982
	rep. No. 65, 2002
s. 24AA	ad. No. 84, 1960
	am. No. 67, 1982
s. 24AB	ad. No. 84, 1960
	am. No. 33, 1973; No. 67, 1982; No. 24, 2001; No. 73, 2008
s. 24AC	ad. No. 84, 1960
	am. No. 67, 1982; No. 65, 2002; No. 73, 2008
s. 24A	ad. No. 54, 1920
	am. No. 84, 1960; No. 102, 1986
	rep. No. 144, 2005
s. 24B	ad. No. 54, 1920
	rep. No. 144, 2005
s. 24C	ad. No. 54, 1920
	am. No. 67, 1982; No. 102, 1986
	rs. No. 24, 2001
	rep. No. 144, 2005
s. 24D	ad. No. 54, 1920
	am. No. 67, 1982; No. 102, 1986
	rep. No. 144, 2005
s. 24E	ad. No. 54, 1920
	am. No. 93, 1966; No. 67, 1982; No. 108, 1989
	rep. No. 144, 2005
s. 24F	ad. No. 84, 1960
	am. No. 33, 1973; No. 67, 1982; No. 102, 1986; No. 65, 2002; No. 73, 2008; No. 127, 2010
s. 25	am. No. 80, 1950; No. 84, 1960; No. 67, 1982; No. 24, 2001; No. 73, 2008; No. 46, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s. 26	rs. No. 84, 1960
	am. No. 24, 2001; No. 73, 2008
ss. 27, 28	am. No. 67, 1982
s. 29	am. No. 67, 1982; No. 120, 1987; No. 24, 2001
s. 29A	ad. No. 9, 1926
	am. No. 67, 1982
	rep. No. 137, 2000
s. 29B	ad. No. 9, 1926
	am. No. 6, 1941; No. 67, 1982
	rep. No. 137, 2000
s. 29C	ad. No. 9, 1926
	rs. No. 84, 1960
	am. No. 67, 1982
	rep. No. 137, 2000
s. 29D	ad. No. 165, 1984
	am. No. 76, 1986; No. 164, 1992
	rep. No. 137, 2000
s. 30	am. No. 84, 1960; No. 67, 1982
	rep. No. 137, 2000
Part IIA	
Heading to Part IIA	rs. No. 127, 2010
Part IIA	ad. No. 9, 1926
s. 30A	ad. No. 9, 1926
	am. No. 30, 1932; No. 33, 1973; No. 19, 1979; No. 67, 1982; No. 144, 2005
	rep. No. 127, 2010
s. 30AA	ad. No. 30, 1932
	am. No. 5, 1937; No. 33, 1973; No. 19, 1979; No. 67, 1982; No. 24, 2001
	rep. No. 127, 2010
s. 30AB	ad. No. 30, 1932
	am. No. 93, 1966; No. 67, 1982; No. 73, 2008

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Provision affected	How affected
	rep. No. 127, 2010
s. 30B	ad. No. 9, 1926
	am. No. 67, 1982
	rep. No. 127, 2010
s. 30C	ad. No. 9, 1926
	am. No. 33, 1973; No. 67, 1982
	rep. No. 127, 2010
s. 30D	ad. No. 9, 1926
	am. No. 67, 1982
	rep. No. 127, 2010
s. 30E	ad. No. 9, 1926
	am. No. 30, 1932; No. 84, 1960; No. 56, 1975; No. 67, 1982
	rep. No. 127, 2010
s. 30F	ad. No. 9, 1926
	am. No. 30, 1932; No. 67, 1982; No. 24, 2001
	rep. No. 127, 2010
s. 30FA	ad. No. 30, 1932
	rep. No. 127, 2010
s. 30FB	ad. No. 30, 1932
	am. No. 33, 1973; No. 67, 1982
	rep. No. 136, 1983
Heading to s. 30FC	am. No. 24, 2001
	rep. No. 127, 2010
s. 30FC	ad. No. 30, 1932
	am. No. 93, 1966; No. 67, 1982; No. 24, 2001
	rep. No. 127, 2010
s. 30FD	ad. No. 30, 1932
	am. No. 33, 1973; No. 19, 1979; No. 67, 1982; No. 73, 2008
	rep. No. 127, 2010
s. 30G	ad. No. 9, 1926
	am. No. 84, 1960

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 127, 2010
s. 30H	ad. No. 9, 1926
	am. No. 73, 2008
	rep. No. 127, 2010
s. 30J	ad. No. 9, 1926
	am. No. 33, 1973; No. 73, 2008
s. 30K	ad. No. 9, 1926
	am. No. 67, 1982; No. 137, 2000; No. 73, 2008
s. 30L	ad. No. 9, 1926
	rs. No. 30, 1932
	rep. No. 33, 1973
s. 30M	ad. No. 9, 1926
	rep. No. 33, 1973
s. 30N	ad. No. 9, 1926
	am. No. 93, 1966
	rep. No. 33, 1973
ss. 30P, 30Q	ad. No. 9, 1926
	rep. No. 33, 1973
Heading to s. 30R	rs. No. 24, 2001
	rep. No. 127, 2010
s. 30R	ad. No. 9, 1926
	am. No. 67, 1982; No. 24, 2001
	rep. No. 127, 2010
Part III	
Division 1	
Heading to Div. 1 of Part III	ad. No. 3, 2011
s. 31	am. No. 84, 1960; No. 67, 1982
	rs. No. 3, 2011
s. 32	am. No. 67, 1982
	rep. No. 137, 2000

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Provision affected	How affected
s. 33	am. No. 84, 1960; No. 67, 1982
	rep. No. 137, 2000
Division 2	
Heading to Div. 2 of Part III	ad. No. 3, 2011
s. 34	am. No. 67, 1982; No. 24, 2001; No. 73, 2008
	rs. No. 3, 2011
Division 3	
Heading to Div. 3 of Part III	ad. No. 3, 2011
s. 35	am. No. 216, 1973; No. 67, 1982; No. 24, 2001
	rs. No. 3, 2011
s. 36	am. No. 67, 1982; No. 73, 1987; No. 24, 2001
	rs. No. 3, 2011
s. 36A	ad. No. 84, 1960
	am. No. 67, 1982; No. 73, 2008
	rs. No. 3, 2011
s. 37	am. No. 67, 1982; No. 24, 2001; No. 73, 2008
	rs. No. 3, 2011
s. 38	am. No. 67, 1982; No. 24, 2001
	rs. No. 3, 2011
s. 39	am. No. 67, 1982; No. 73, 1987; No. 24, 2001
	rs. No. 3, 2011
s. 40	rs. No. 84, 1960
	am. No. 67, 1982; No. 24, 2001
	rs. No. 3, 2011
Division 4	
Heading to Div. 4 of Part III	ad. No. 3, 2011
s. 41	am. No. 84, 1960; No. 67, 1982; No. 24, 2001; No. 3, 2011
s. 42	am. No. 67, 1982; No. 24, 2001; No. 3, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s. 43	am. No. 67, 1982; No. 73, 1987; No. 24, 2001; No. 3, 2011
s. 44	am. No. 84, 1960; No. 67, 1982; No. 24, 2001; No. 73, 2008
	rs. No. 3, 2011
s. 45	am. No. 84, 1960; No. 67, 1982
	rs. No. 3, 2011
Division 5	
Heading to Div. 5 of Part III	ad. No. 3, 2011
s. 45A	ad. No. 3, 2011
s. 46	am. No. 67, 1982; No. 120, 1987; No. 108, 1989; No. 182, 1994; No. 24, 2001; No. 41, 2003
	rs. No. 3, 2011
s. 46A	ad. No. 3, 2011
s. 47	am. No. 67, 1982
	rs. No. 120, 1987
	am. No. 108, 1989; No. 182, 1994; No. 41, 2003
	rs. No. 3, 2011
s. 47A	ad. No. 120, 1987
	am. No. 182, 1994; No. 41, 2003
	rs. No. 3, 2011
ss. 47B, 47C	ad. No. 120, 1987
	am. No. 108, 1989; No. 182, 1994; No. 24, 2001; No. 41, 2003
	rs. No. 3, 2011
s. 48	am. No. 216, 1973; No. 67, 1982
	rs. No. 120, 1987
	am. No. 108, 1989; No. 182, 1994
	rs. No. 3, 2011
s. 48A	ad. No. 141, 1987
	am. No. 182, 1994
s. 48B	ad. No. 141, 1987
	rep. No. 65, 1994

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Provision affected	How affected
Division 6	
Heading to Div. 6 of Part III	ad. No. 3, 2011
s. 49	am. No. 84, 1960; No. 67, 1982; No. 24, 2001
	rs. No. 3, 2011
s. 50	am. No. 84, 1960; No. 67, 1982
	rep. No. 137, 2000
Part IIIA	ad. No. 105, 1994
	rep. No. 42, 2010
s. 50AA	ad. No. 105, 1994
	am. No. 24, 2001; No. 4, 2010
	rep. No. 42, 2010
ss. 50AB–50AD	ad. No. 105, 1994
	rep. No. 42, 2010
ss. 50BA–50BD	ad. No. 105, 1994
	am. No. 24, 2001
	rep. No. 42, 2010
s. 50CA	ad. No. 105, 1994
	rep. No. 42, 2010
Note to s. 50CA	ad. No. 24, 2001
	rep. No. 42, 2010
s. 50CB	ad. No. 105, 1994
	rep. No. 42, 2010
Note to s. 50CB	ad. No. 24, 2001
	rep. No. 42, 2010
ss. 50CC, 50CD	ad. No. 105, 1994
	rep. No. 42, 2010
ss. 50DA, 50DB	ad. No. 105, 1994
	am. No. 24, 2001
	rep. No. 42, 2010
ss. 50EA–50EG	ad. No. 105, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 42, 2010
ss. 50FA–50FD	ad. No. 105, 1994
	rep. No. 42, 2010
s. 50GA	ad. No. 105, 1994
	rep. No. 42, 2010
Part IV	
Part IV	rep. No. 122, 1981
	ad. No. 164, 1992
s. 51	am. No. 80, 1950; No. 10, 1955; No. 84, 1960
	rep. No. 122, 1981
	ad. No. 164, 1992
	am. No. 4, 2010
s. 52	am. No. 84, 1960
	rep. No. 122, 1981
	ad. No. 164, 1992
ss. 53–55	rep. No. 122, 1981
	ad. No. 164, 1992
s. 56	am. No. 84, 1960
	rep. No. 122, 1981
	ad. No. 164, 1992
	am. No. 146, 1999; No. 5, 2011
s. 57	rep. No. 122, 1981
ss. 58, 59	am. No. 84, 1960
	rep. No. 122, 1981
s. 60	rs. No. 84, 1960
	rep. No. 122, 1981
s. 60A	ad. No. 84, 1960
	rep. No. 122, 1981
s. 61	am. No. 84, 1960
	rep. No. 122, 1981
s. 62	rep. No. 122, 1981

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Provision affected	How affected
s. 62A	ad. No. 10, 1955
	rs. No. 84, 1960
	rep. No. 122, 1981
Part V	rep. No. 137, 2000
s. 63	am. No. 80, 1950; No. 67, 1982; No. 108, 1989
	rep. No. 137, 2000
s. 63A	ad. No. 9, 1926
	rep. No. 122, 1981
s. 64	rep. No. 137, 2000
s. 65	am. No. 84, 1960; No. 216, 1973; No. 67, 1982
	rep. No. 137, 2000
s. 66	am. No. 84, 1960; No. 67, 1982; No. 152, 1997
	rep. No. 137, 2000
s. 67	am. No. 9, 1926; No. 67, 1982; No. 108, 1989
	rep. No. 137, 2000
s. 68	am. No. 67, 1982
	rep. No. 137, 2000
s. 69	am. No. 84, 1960; No. 67, 1982
	rep. No. 137, 2000
Part VI	
s. 70	rs. No. 84, 1960
	am. No. 67, 1982; No. 141, 1987; No. 73, 2008
s. 71	rs. No. 9, 1926
	am. No. 84, 1960; No. 67, 1982
	rep. No. 137, 2000
s. 71A	ad. No. 9, 1926
	am. No. 67, 1982
	rep. No. 137, 2000
s. 72	am. No. 9, 1926; Nos. 67 and 80, 1982
	rep. No. 137, 2000
s. 73	rs. No. 9, 1926

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Endnote 4—Amendment history

Provision affected	How affected
	am. No. 84, 1960
	rs. No. 67, 1982
	am. No. 141, 1987
	rep. No. 137, 2000
s. 73A	ad. No. 67, 1982
	rep. No. 137, 2000
s. 74	am. No. 67, 1982
	rep. No. 137, 2000
s. 75	am. No. 67, 1982; No. 141, 1987
	rep. No. 137, 2000
s. 76	am. No. 9, 1926; No. 67, 1982
	rs. No. 28, 1991
	am. No. 164, 1992
	rep. No. 137, 2000
Part VIA	ad. No. 108, 1989
	rep. No. 161, 2001
s. 76A	ad. No. 108, 1989
	am. No. 99, 1991; No. 59, 1997
	rep. No. 161, 2001
ss. 76B, 76C	ad. No. 108, 1989
	am. No. 24, 2001
	rep. No. 161, 2001
ss. 76D, 76E	ad. No. 108, 1989
	am. No. 99, 1991; No. 24, 2001
	rep. No. 161, 2001
s. 76F	ad. No. 108, 1989
	rep. No. 161, 2001
Part VII	
Heading to Part VII	rs. No. 84, 1960; No. 91, 2002
s. 77	am. No. 9, 1926
	rs. No. 84, 1960

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Provision affected	How affected
s. 78	am. No. 77, 1946
	rs. No. 84, 1960
	am. No. 67, 1982; No. 24, 2001
	rep. No. 91, 2002
s. 79	am. No. 77, 1946
	rs. No. 84, 1960
	am. No. 33, 1973; No. 67, 1982; No. 24, 2001; No. 91, 2002; No. 73, 2008
s. 80	am. No. 77, 1946; No. 84, 1960; No. 33, 1973; No. 67, 1982
s. 81	am. No. 84, 1960; Nos. 33 and 216, 1973; No. 155, 1979; No. 70, 1980; No. 67, 1982; No. 24, 2001
	rep. No. 91, 2002
s. 82	rs. No. 84, 1960
	rep. No. 65, 1994
s. 83	am. No. 84, 1960; No. 67, 1982; No. 24, 2001
s. 83A	ad. No. 84, 1960
	am. No. 67, 1982; No. 24, 2001
	rep. No. 91, 2002
s. 83B	ad. No. 84, 1960
	rep. No. 91, 2002
s. 84	rs. No. 84, 1960
	am. No. 67, 1982
	rep. No. 91, 2002
s. 84A	ad. No. 84, 1960
	rep. No. 91, 2002
s. 85	am. No. 216, 1973; No. 73, 2008
s. 85A	ad. No. 84, 1960
	rep. No. 91, 2002
s. 85B	ad. No. 84, 1960
	am. No. 67, 1982; No. 73, 2008
s. 85C	ad. No. 84, 1960

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 91, 2002
s. 85D	ad. No. 84, 1960
Part VIIA	
Part VIIA	ad. No. 63, 1989
s. 85E	ad. No. 84, 1960
	am. No. 33, 1973
	rep. No. 67, 1982
	ad. No. 63, 1989
	am. No. 142, 1994
s. 85F	ad. No. 63, 1989
ss. 85G, 85H	ad. No. 63, 1989
	am. No. 24, 2001
ss. 85J, 85K	ad. No. 63, 1989
	rep. No. 137, 2000
s. 85L	ad. No. 63, 1989
	rs. No. 142, 1994
	rep. No. 137, 2000
s. 85M	ad. No. 63, 1989
	rep. No. 137, 2000
s. 85N	ad. No. 63, 1989
	am. No. 24, 2001
s. 85P	ad. No. 63, 1989
	rep. No. 137, 2000
ss. 85Q, 85R	ad. No. 63, 1989
	am. No. 24, 2001
s. 85S	ad. No. 63, 1989
	am. No. 59, 1997; No. 24, 2001
	rep. No. 9, 2002
ss. 85T, 85U	ad. No. 63, 1989
	am. No. 24, 2001
s. 85V	ad. No. 63, 1989

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Provision affected	How affected
	am. No. 164, 1992; No. 24, 2001
Heading to s. 85W	am. No. 101, 2010
s. 85W	ad. No. 63, 1989
	am. No. 24, 2001; No. 101, 2010
s. 85X	ad. No. 63, 1989
	rs. No. 142, 1994
	am. No. 24, 2001
	rep. No. 9, 2002
s. 85Y	ad. No. 63, 1989
	rep. No. 9, 2002
s. 85Z	ad. No. 63, 1989
s. 85ZA	ad. No. 63, 1989
Heading to Part VIIB	rs. No. 59, 1997
	rep. No. 127, 2004
Part VIIB	ad. No. 63, 1989
	rep. No. 127, 2004
s. 85ZB	ad. No. 63, 1989
	am. No. 99, 1991; No. 59, 1997
	rep. No. 127, 2004
Heading to s. 85ZBA	am. No. 59, 1997
	rep. No. 127, 2004
s. 85ZBA	ad. No. 99, 1991
	am. No. 59, 1997
	rep. No. 127, 2004
s. 85ZC	ad. No. 63, 1989
	am. No. 99, 1991; No. 59, 1997
	rep. No. 127, 2004
s. 85ZD	ad. No. 63, 1989
	am. No. 59, 1997; No. 24, 2001
	rep. No. 127, 2004
Heading to s. 85ZE	am. No. 59, 1997

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 127, 2004
s. 85ZE	ad. No. 63, 1989
	am. No. 59, 1997; No. 90, 1999; No. 24, 2001
	rep. No. 127, 2004
s. 85ZF	ad. No. 63, 1989
	am. No. 164, 1992; No. 59, 1997
	rep. No. 137, 2000
Heading to s. 85ZG	am. No. 59, 1997
	rep. No. 127, 2004
s. 85ZG	ad. No. 63, 1989
	am. No. 59, 1997; No. 24, 2001
	rep. No. 127, 2004
s. 85ZH	ad. No. 63, 1989
	am. No. 164, 1992; No. 24, 2001
	rep. No. 127, 2004
s. 85ZJ	ad. No. 63, 1989
	am. No. 24, 2001
	rep. No. 127, 2004
s. 85ZK	ad. No. 63, 1989
	am. No. 11, 1990; No. 99, 1991; No. 59, 1997; No. 24, 2001
	rep. No. 127, 2004
Note to s. 85ZK(2)	ad. No. 24, 2001
	rep. No. 127, 2004
s. 85ZKA	ad. No. 11, 1990
	am. No. 99, 1991; No. 59, 1997
	rep. No. 127, 2004
Note to s. 85ZKA(2)	ad. No. 24, 2001
	rep. No. 127, 2004
s. 85ZKB	ad. No. 11, 1990
	am. No. 182, 1994
	rep. No. 127, 2004

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Provision affected	How affected
Part VIIC	
Part VIIC	ad. No. 108, 1989
Division 1	
s. 85ZL	ad. No. 108, 1989
	am. Nos. 4 and 75, 1990; No. 28, 1991; No. 60, 1996; Nos. 146 and 161, 1999; No. 136, 2001; Nos. 105 and 125, 2002; No. 128, 2005; SLI 2006 No. 50; Nos. 86 and 170, 2006; Nos. 33 and 54, 2009; No. 5, 2011; No 108, 2014
ss. 85ZM, 85ZN	ad. No. 108, 1989
s. 85ZP	ad. No. 108, 1989
Note to s. 85ZP(3)	ad. No. 106, 2009
s. 85ZQ	ad. No. 108, 1989
Division 2	
s. 85ZR	ad. No. 108, 1989
ss. 85ZS–85ZU	ad. No. 108, 1989
	am. No. 28, 2010
Division 3	
ss. 85ZV, 85ZW	ad. No. 108, 1989
Division 4	
ss. 85ZX, 85ZY	ad. No. 108, 1989
Division 5	
Heading to Div. 5 of Part VIIC	rs. No. 51, 2010
Heading to s. 85ZZ	am. No. 51, 2010
s. 85ZZ	ad. No. 108, 1989
	am. Nos. 28 and 51, 2010; No 197, 2012
Heading to s. 85ZZA	am. No. 51, 2010
s. 85ZZA	ad. No. 108, 1989
	am. No. 2, 2000; No. 51, 2010
s. 85ZZB	ad. No. 108, 1989
s. 85ZZC	ad. No. 108, 1989
	am. No. 51, 2010

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Endnote 4—Amendment history

Provision affected	How affected
Heading to s. 85ZZD	am. No. 51, 2010
s. 85ZZD	ad. No. 108, 1989
	am. No. 51, 2010
s. 85ZZE	ad. No. 108, 1989
s. 85ZZF	ad. No. 108, 1989
	am. No. 106, 2009; No. 51, 2010
s. 85ZZG	ad. No. 108, 1989
	am. No. 197, 2012
Division 6	
Subdivision A	
Subdiv. A of Div. 6 of Part VIIC	ad. No. 28, 2010
ss. 85ZZGA–85ZZGG	ad. No. 28, 2010
Subdivision B	
Heading to Subdiv. B of Div. 6 of Part VIIC	ad. No. 28, 2010
s. 85ZZH	ad. No. 108, 1989
	am. No. 4, 1990; No. 182, 1994; No. 170, 2006; No. 21, 2007; No. 28, 2010
s. 85ZZJ	ad. No. 108, 1989
	am. No. 4, 1990
Subdivision C	
Heading to Subdiv. C of Div. 6 of Part VIIC	ad. No. 28, 2010
s. 85ZZK	ad. No. 108, 1989
s. 85ZZL	ad. No. 106, 2009
s. 86	am. No. 6, 1915
	rs. No. 84, 1960
	am. No. 67, 1982; No. 165, 1984; No. 120, 1987
	rs. No. 11, 1995
	am. No. 137, 2000
	rep. No. 24, 2001

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Provision affected	How affected
s. 86A	ad. No. 165, 1984
	am. No. 76, 1986; No. 164, 1992
	rep. No. 11, 1995
Part VIII	
s. 87	am. No. 67, 1982; No. 73, 2008
s. 88	am. No. 67, 1982
	rep. No. 137, 2000
s. 89	am. No. 13, 1928; No. 77, 1946
	rs. No. 84, 1960
	am. No. 93, 1966; No. 33, 1973; No. 67, 1982; No. 141, 1987; No. 164, 1992; No. 64, 2004; No. 73, 2008
s. 89A	ad. No. 13, 1928
	rs. No. 84, 1960
	am. No. 67, 1982; No. 73, 2008
s. 90	am. No. 93, 1966; No. 67, 1982; No. 164, 1992; No. 73, 2008
s. 90A	ad. No. 10, 1955
	am. No. 93, 1966; No. 67, 1982
s. 90B	ad. No. 84, 1960
	am. No. 216, 1973; No. 67, 1982; No. 24, 2001
s. 91	ad. No. 30, 1932
	am. No. 84, 1960
	rep. No. 33, 1973
	ad. No. 67, 1982
Schedule	
Schedule	ad. No. 59, 1991

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