Crimes at Sea Act 1979

Act No. 17 of 1979 as amended

[Note: This Act is repealed by Act No. 13 of 2000]

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The text of any of those amendments not in force
on that date is appended in the Notes section

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Contents

1	Short title [*see* Note 1]	1
2	Commencement [*see* Note 1]	1
3	Interpretation	1
4	Arrangements with States	4
5	Certain Commonwealth laws excluded	5
6	Criminal laws applicable in relation to Australian ships engaged on certain voyages	6
7	Criminal laws applicable in relation to certain foreign ships	7
8	Criminal laws applicable to Australian citizens on foreign ships	10
9	Criminal laws applicable in offshore areas in relation to exploration or exploitation of the continental shelf	10
9A	Criminal laws applicable in Area A of the Zone of Cooperation	11
10	Criminal laws applicable in offshore areas in relation to other matters within Australian jurisdiction	12
11	Criminal laws applicable in offshore areas in relation to Australian citizens or residents	13
12	Certain criminal laws not to apply	14
13	Procedure in proceedings under applied State or Territory law	14
14	Objection not allowable where two offences charged	15
15	Concurrent operation of laws	15
16	Presumption of jurisdiction	15
17	Stay of proceedings	16
17A	Transit of persons accused of offences against the laws of East Timor	17
17B	Agreements relating to enforcement of criminal laws in Area A	18
18	Regulations	19

Notes 21

An Act relating to offences committed at sea or in foreign ports or harbours, and matters connected therewith

1 Short title [*see* Note 1]

This Act may be cited as the *Crimes at Sea Act 1979*.

2 Commencement [*see* Note 1]

This Act shall come into operation on a date to be fixed by Proclamation.

3 Interpretation

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

act includes:

(a) a failure to do an act; and

(b) any circumstance or state of affairs.

Area A of the Zone of Cooperation has the same meaning as in the *Petroleum (Timor Gap Zone of Cooperation) Act 1990*.

Australian fishing zone has the same meaning as in the *Fisheries Management Act 1991*.

Australian ship means:

(a) a ship registered in Australia or an external Territory under an Act or Imperial Act relating to the registration of ships that is applicable throughout the whole of Australia and the external Territories, not being an Act or Imperial Act relating to the registration of ships for a particular purpose or purposes only; or

(b) any other ship (not being a ship registered in a foreign country) the operations of which are based in a place or places in Australia or an external Territory or which is wholly owned by a person who, or persons each of whom, is a natural person resident in, or a company incorporated in, Australia or an external Territory.

authority means:

(a) in relation to a State:

(i) the Governor, a Minister or a member of the Executive Council of the State;

(ii) a person who holds office as a member of a court of the State;

(iii) a body created by or under the law of the State; and

(iv) an officer or employee of the State or of a body referred to in subparagraph (iii); and

(b) in relation to the Northern Territory:

(i) the Administrator or a Minister of the Territory;

(ii) a person who holds office as a member of a court of the Territory;

(iii) a body created by or under the law of the Territory; and

(iv) an officer or employee of the Territory or of a body referred to in subparagraph (iii).

committal, in relation to an offence, means the committal of a person for trial, or to be sentenced or otherwise dealt with, for the offence.

criminal laws means any laws, whether written or unwritten and whether substantive or procedural, and as in force from time to time, that make provision for or in relation to offences (whether punishable on conviction on indictment or on summary conviction) or for or in relation to the investigation of offences or punishment of offenders, and includes any laws providing for the interpretation of those laws.

East Timor:

(a) during the period of the administration of the United Nations Transitional Administration in East Timor (***UNTAET***) means:

(i) when referred to in a geographic sense—the territory administered by UNTAET under United Nations Security Council Resolution 1272 (1999) of 25 October 1999 at New York; and

(ii) when referred to as a body politic—UNTAET; and

(b) after the territory ceases to be administered by UNTAET—has the meaning given by the regulations.

fishing has the same meaning as in the *Fisheries Management Act 1991*.

foreign country means a country other than:

(a) Australia; or

(b) an external Territory.

foreign ship means a ship other than an Australian ship.

proceedings includes proceedings with a view to the committal of a person for an offence.

ship means a vessel or boat of any description and includes:

(a) any floating structure; and

(b) any hovercraft or other similar craft.

(2) In this Act:

(a) a reference to the commission of an act shall:

(i) in the case of a failure to do an act—be construed as a reference to the failure; and

(ii) in the case of an act being a circumstance or state of affairs—be construed as a reference to the occurrence or coming into existence of the circumstance or state of affairs;

(b) a reference to a person who committed an act shall:

(i) in the case of a failure to do an act—be construed as a reference to a person who failed to do the act; and

(ii) in the case of an act being a circumstance or state of affairs—be construed as a reference to a person who was party to or concerned in, or otherwise has the responsibility for, the occurrence or existence of the circumstance or state of affairs;

(c) a reference to an act committed from a ship includes a reference to an act committed in, on or below, or in the airspace above, the sea by a person from a ship; and

(d) a reference to the criminal laws in force in a State or Territory does not include a reference to any laws of the Commonwealth in force in that State or Territory.

(3) For the purposes of this Act:

(a) subject to paragraph (b), the place at which a ship's voyage commences constitutes a place of call of the ship;

(b) a reference to a place of call does not include a place that is not in a State or Territory and is not in a foreign country or the territorial sea of a foreign country; and

(c) a place in the territorial sea adjacent to a State or Territory shall be deemed to be a place in that State or Territory, as the case may be.

(4) For the purposes of this Act, a person ceases to be a survivor of a wreck or sinking of a ship when he is rescued.

4 Arrangements with States

(1) The Governor-General may make an arrangement with the Governor of a State or with the Administrator of the Northern Territory for or in relation to the exercise or performance in or in relation to that State or that Territory, as the case may be, of a power, duty or function (not being a power, duty or function involving the exercise of judicial power) by an authority of the State or Territory under the provisions of the criminal laws in force in any State or Territory as applying by virtue of this Act and, where such an arrangement is in force, the power, duty or function may or shall, as the case may be, be exercised or performed in or in relation to the first-mentioned State or Territory accordingly.

(2) An arrangement under this section may contain such incidental or supplementary provisions as:

(a) in the case of an arrangement made by the Governor-General with the Governor of a State—the Governor-General and the Governor of the State think necessary; or

(b) in the case of an arrangement made by the Governor-General with the Administrator of the Northern Territory—the Governor-General and the Administrator of the Territory think necessary.

(3) Where an arrangement is in force under this section, the Governor-General may:

(a) in the case of an arrangement made by the Governor-General with the Governor of a State—arrange with the Governor of the State; or

(b) in the case of an arrangement made by the Governor-General with the Administrator of the Northern Territory—arrange with the Administrator of the Territory;

for the variation or revocation of the arrangement.

(4) A copy of each instrument by which an arrangement under this section has been made, varied or revoked shall be published in the *Gazette*.

5 Certain Commonwealth laws excluded

(1) Subject to subsection (2), the *Acts Interpretation Act 1901* does not apply in relation to the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act.

(2) Nothing in subsection (1) affects the application, by virtue of this Act, of any provisions of the criminal laws in force in a Territory by reason that those provisions adopt, incorporate or otherwise apply, with or without modification, any of the provisions of the *Acts Interpretation Act 1901*.

(3) Sections 4A, 4B, 4D to 4K (inclusive), 5, 6, 7, 7A and 86 of the *Crimes Act 1914* do not apply in relation to matters arising in or in relation to a State under the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act.

(4) Where there is in force an arrangement with the Governor of a State or with the Administrator of a Territory under section 4, then:

(a) Part 1AA (other than section 3Z), and sections 9, 13, 14, 15, 15A, 15B, 15C and 15D all the provisions of Divisions 1 to 9 (inclusive) of Part 1B, sections 20C, 21B and 21E and Part 1D of the *Crimes Act 1914*; and

(b) sections 69, 70, 71, 71A and 72 to 76 (inclusive) of the *Judiciary Act 1903*;

do not apply to or in relation to matters arising in or in relation to that State or Territory under the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act.

(5) Nothing in this Act affects the operation of section 68 of the *Judiciary Act 1903*.

6 Criminal laws applicable in relation to Australian ships engaged on certain voyages

(1) The provisions of the criminal laws in force in a State or Territory apply to and in relation to:

(a) any act that is committed on or from an Australian ship if, at the time when the act was committed, the ship was connected with that State or Territory and was in the course of a prescribed voyage;

(b) any act that is committed by a survivor of the wreck or sinking of an Australian ship if, immediately before the ship was wrecked or sunk, it was connected with that State or Territory and was in the course of a prescribed voyage; and

(c) any act that is committed on or from an Australian ship in a place in a foreign country if, at the time when the act was committed, the ship was connected with that State or Territory;

and so apply as if the act were committed in that State or Territory.

(2) For the purposes of this section, an Australian ship shall be taken to be connected with a particular State or Territory at a particular time if:

(a) the ship is registered at that time at a place in that State or Territory under an Act or Imperial Act relating to the registration of ships that is applicable throughout the whole of Australia and the external Territories, not being an Act or Imperial Act relating to the registration of ships for a particular purpose or purposes only;

(b) in the case of a ship that at that time is not connected by virtue of paragraph (a) with any State or Territory—at that time the ship is registered or licensed for a particular purpose or purposes in that State or Territory under a law of the Commonwealth or of a State or Territory;

(c) in the case of a ship that at that time is not connected by virtue of paragraph (a) or (b) with any State or Territory—at that time a place in that State or Territory serves as a base of operations for the ship; or

(d) in the case of a ship that at that time is not connected by virtue of paragraph (a), (b) or (c) with any State or Territory—the ship may, having regard to all relevant considerations, reasonably be regarded as having at that time a connection with that State or Territory.

(3) For the purposes of this section, an Australian ship shall be taken to be on a prescribed voyage if:

(a) the last preceding place of call of the ship was a place in a State and, at the time of the ship's departure from that place, it was intended that the next place of call of the ship would be a place outside that State;

(b) the last preceding place of call of the ship was a place in the Northern Territory and, at the time of the ship's departure from that place, it was intended that the next place of call of the ship would be a place outside the Northern Territory; or

(c) the last preceding place of call of the ship was a place in a Territory other than the Northern Territory or was a place in a foreign country.

7 Criminal laws applicable in relation to certain foreign ships

(1) This section applies in relation to:

(a) any act that is committed on or from a foreign ship:

(i) at a time when the ship is beyond the outer limits of the territorial sea of Australia (but is not within the outer limits of the territorial sea adjacent to an external Territory or the outer limits of the territorial sea of a foreign country) in the course of a voyage to a place in Australia or an external Territory; or

(ii) in the case of a ship that is engaged in fishing or in respect of which a licence is in force under the *Fisheries Act 1952* or a foreign fishing licence or a port permit is in force under the *Fisheries Management Act 1991*—at a time when the ship is in the Australian fishing zone beyond the outer limits of the territorial sea of Australia but is not within the outer limits of the territorial sea adjacent to an external Territory;

(b) any act that is committed beyond the outer limits of the territorial sea of Australia (but not within the outer limits of

the territorial sea adjacent to an external Territory or within the outer limits of the territorial sea of a foreign country) by a survivor of the wreck or sinking of a foreign ship if, immediately before the ship was wrecked or sunk, the ship was in the course of a voyage referred to in subparagraph (a)(i); and

(c) any act that is committed in the Australian fishing zone beyond the outer limits of the territorial sea of Australia (but not within the outer limits of the territorial sea adjacent to an external Territory) by a survivor of the wreck or sinking of a foreign ship if, immediately before the ship was wrecked or sunk, the ship was engaged in fishing or a licence was in force in respect of the ship under the *Fisheries Act 1952* or a foreign fishing licence or a port permit was in force in respect of the ship under the *Fisheries Management Act 1991*.

(2) For the purposes of this section, a ship shall be taken to be in the course of a voyage to a place in Australia or an external Territory if at the time of the ship's departure from the last preceding place of call of the ship it was intended that the next place of call of the ship would be a place in Australia or an external Territory.

(3) If the person who committed an act in relation to which this section applies enters, or is brought into, a State or Territory, the provisions of the criminal laws in force in that State or Territory apply, and shall be deemed to have always applied, to and in relation to that act and so apply, and shall be deemed to have always so applied, as if that act had been committed in that State or Territory.

(4) In a prosecution of a person who is not an Australian citizen for an offence against a provision of the criminal laws in force in a State or Territory as applying by virtue of subsection (3), it is a defence if that person establishes that the act constituting the offence would not have constituted an offence against the law of the country of which he is a national if the act had taken place in that country.

(5) Proceedings for an offence against a provision of the criminal laws in force in a State or Territory as applying by virtue of subsection (3) in relation to an act committed on or from a foreign ship (other

than proceedings for an offence against a law relating to fisheries) shall not be heard or determined, and, in the case of an indictable offence, proceedings with a view to the committal of a person for the offence shall not take place, except with the consent in writing of the Attorney-General.

(6) Where a country other than Australia has jurisdiction under international law in relation to a foreign ship, the Attorney-General shall not give his consent under subsection (5) in relation to an act committed on or from that ship unless he is satisfied that the government of that country has consented to the institution of the proceedings.

(7) Subsection (6) does not apply in relation to an act that the Attorney-General is satisfied is of a piratical character.

(8) Notwithstanding that a consent has not been given in relation to an offence in accordance with subsection (5):

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

(b) a person may be charged with the offence; and

(c) a person so charged may be remanded in custody or on bail.

(9) Where the Attorney-General has given his consent under subsection (5) to proceedings with a view to the committal of a person for an indictable offence, that consent shall be taken as sufficient consent to:

(a) the committal of any person in relation to that offence or in relation to any other offence for which the person may be committed as a result of those proceedings; and

(b) the hearing and determination of the proceedings for any offence for which a person is so committed.

(10) In proceedings requiring the consent of the Attorney-General under subsection (5), a document purporting to be that consent is evidence, and in the absence of evidence to the contrary is conclusive evidence, of the matters stated in the document, and it shall be presumed, unless the contrary is established, that the consent has been duly given.

8 Criminal laws applicable to Australian citizens on foreign ships

The provisions of the criminal laws in force in a State or Territory apply to and in relation to:

(a) any act that is committed on or from a foreign ship at a time when the ship is beyond the outer limits of the territorial sea of Australia and is not within the outer limits of the territorial sea adjacent to an external Territory if:

(i) at that time the person who committed the act was an Australian citizen and was not a member of the crew of the ship; and

(ii) that person was domiciled at that time in that State or Territory or his last place of residence in Australia or the external Territories before that time was in that State or Territory; and

(b) any act that is committed beyond the outer limits of the territorial sea of Australia and not within the outer limits of the territorial sea adjacent to an external Territory by a survivor of the wreck or sinking of a foreign ship if:

(i) the survivor was an Australian citizen at the time when the act was committed; and

(ii) the survivor was domiciled in that State or Territory at the time when the act was committed or his last place of residence in Australia or the external Territories before that time was in that State or Territory;

and so apply as if the act had been committed in that State or Territory.

9 Criminal laws applicable in offshore areas in relation to exploration or exploitation of the continental shelf

(1) Subject to this section, the provisions of the criminal laws in force in a State or Territory apply in the part of the adjacent area in relation to that State or Territory that is beyond the outer limits of the territorial sea of Australia and is not within the outer limits of the territorial sea adjacent to an external Territory and so apply as if that part of that area were part of that State or Territory.

(2) Subject to subsection (3), the provisions referred to in subsection (1) apply by virtue of subsection (1) to and in relation to all acts,

matters and things touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia or of an external Territory and not otherwise.

(3) Without limiting the generality of subsection (2), the provisions referred to in subsection (1) apply by virtue of subsection (1) to and in relation to all acts committed by or in relation to, and all matters, circumstances and things affecting, any person who is in the adjacent area for a reason touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia or of an external Territory.

(4) For the purposes of this section, ***the adjacent area***, in relation to a State or Territory, has the same meaning as in the *Petroleum (Submerged Lands) Act 1967*.

9A Criminal laws applicable in Area A of the Zone of Cooperation

(1) Subject to this section, the criminal laws in force in the Northern Territory apply to any act done in Area A of the Zone of Cooperation that touches, concerns, is connected with or arises out of the exploration for, or exploitation of, petroleum resources as if the act had been done in the Northern Territory.

(2) This section does not apply to:

(a) an act done on or from a ship or aircraft; or

(b) an act done by a national of East Timor who is not also a national of Australia; or

(c) an act done by a permanent resident of East Timor who is not a national of Australia.

(3) Proceedings for an offence against a law applied by subsection (1) may not be instituted against a person if:

(a) in proceedings for an offence against a law in force in East Timor arising out of the same act or omission, the person has been acquitted or discharged without the imposition of a penalty; or

(b) the person has incurred a penalty under a law in force in East Timor for such an offence; or

(c) a competent authority of East Timor has decided not to prosecute the person for such an offence.

(4) Proceedings for an offence against a law applied by subsection (1) may not be heard or determined without the written consent of the Attorney-General.

(5) Subsections 7(8), (9) and (10) apply in relation to a consent given by the Attorney-General under subsection (4) of this section as if it were a consent given under subsection 7(5).

(6) In this section:

petroleum has the same meaning as in the Treaty set out in Schedule 1 to the *Petroleum (Timor Gap Zone of Cooperation) Act 1990*.

10 Criminal laws applicable in offshore areas in relation to other matters within Australian jurisdiction

(1) If at any time the regulations declare that, with respect to a particular matter (not being the exploration of, or the exploitation of the resources of, the continental shelf of Australia or of an external Territory) Australia has jurisdiction under international law in relation to an area of waters beyond the outer limits of the territorial sea of Australia and not within the outer limits of the territorial sea adjacent to an external Territory, or in relation to such an area of waters and the airspace above, or the seabed and subsoil below, that area of waters or both that airspace and that seabed and subsoil, then, subject to this section, the provisions of the criminal laws in force in the State or Territory to which that area is adjacent apply in that area, or in that area and that airspace or that seabed and subsoil or both that airspace and that seabed and subsoil, as the case may be, and so apply as if that area were part of that State or Territory.

(2) Subject to subsection (3), the provisions referred to in subsection (1) apply by virtue of subsection (1) to and in relation to all acts, matters and things touching, concerning, arising out of or connected with the matter declared by the regulations, and not otherwise.

(3) Without limiting the generality of subsection (2), the provisions referred to in subsection (1) apply by virtue of subsection (1) to and in relation to all acts that are committed by or in relation to, and all matters, circumstances and things that affect, any person who is in, on or below, or in the airspace above, the relevant area of waters for a reason touching, concerning, arising out of or connected with the matter declared by the regulations.

(4) The regulations may make provision for and in relation to ascertaining the State or Territory to which an area of waters is to be taken to be adjacent for the purposes of subsection (1).

(5) For the purposes of this section, an area of waters may be taken to be adjacent to a State or Territory if that area of waters is adjacent to the territorial sea adjacent to that State or Territory.

11 Criminal laws applicable in offshore areas in relation to Australian citizens or residents

(1) Subject to subsection (2), the provisions of the criminal laws in force in a State or Territory apply in any prescribed area of waters beyond the outer limits of the territorial sea of Australia and not within the outer limits of the territorial sea adjacent to an external Territory, being an area of waters that is adjacent to that State or Territory but not being an area of waters within the territorial sea of another country, and in the airspace above and the seabed and subsoil below any such area of waters, and so apply as if that area were part of that State or Territory.

(2) The provisions referred to in subsection (1) apply by virtue of that subsection to and in relation to all acts that are committed by Australian citizens or Australian residents (other than acts to or in relation to which the provisions of the criminal laws in force in a State or Territory apply by virtue of section 9 or 10), and not otherwise.

(3) The regulations may make provision for or in relation to ascertaining the State or Territory to which an area of waters is to be taken to be adjacent for the purposes of subsection (1).

(4) For the purposes of this section, an area of waters may be taken to be adjacent to a State or Territory if that area of waters is adjacent to the territorial sea adjacent to that State or Territory.

12 Certain criminal laws not to apply

(1) Nothing in this Act renders a provision of the criminal laws in force in a State or Territory applicable to or in relation to an act committed in a particular place:

(a) in so far as the provision is incapable of applying in that place;

(b) if those laws expressly provide that the provision does not extend to or apply in that place; or

(c) if those laws expressly provide that the provision applies only in a specified locality in that State or Territory that does not include that place.

(2) A provision of the criminal laws in force in a State or Territory shall not be taken to be a provision to which subsection (1) applies by reason only that it is limited in its application to acts committed within the territorial jurisdiction of the State or Territory or within the territorial or adjacent waters (however described) of the State or Territory.

13 Procedure in proceedings under applied State or Territory law

(1) Subject to this Act, proceedings (whether original or appellate) under any part of the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act shall be instituted and conducted in a State or Territory in the same manner as though they were proceedings under the law of that last-mentioned State or Territory and all other proceedings in relation to any such proceedings (including declining to proceed further in a prosecution) shall also be taken as though the first-mentioned proceedings were proceedings under that law.

(2) Subsection (1) does not prevent:

(a) the institution or conduct in a State, in accordance with a law of the Commonwealth other than this Act, of proceedings under any part of the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act if

there is not in force an arrangement with the Governor of the first-mentioned State under section 4;

(b) the institution or conduct in the Northern Territory, in accordance with a law of the Commonwealth other than this Act, of proceedings under any part of the criminal laws in force in a State or Territory as applying by virtue of this Act if there is not in force an arrangement with the Administrator of the Northern Territory under section 4; or

(c) the institution or conduct in a Territory other than the Northern Territory, in accordance with a law of the Commonwealth other than this Act, of proceedings under any part of the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act.

(3) The trial on indictment of an offence against any part of the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act shall be by jury.

14 Objection not allowable where two offences charged

Objection shall not be allowed in any proceedings in which an offence is alleged against a part of the provisions of the criminal laws in force in a State or Territory as applying by virtue of this Act by reason only that an offence is also alleged against a law of a State or Territory.

15 Concurrent operation of laws

This Act is not intended to exclude the operation of any provision of a law in force in a State or Territory in so far as that provision is capable of operating concurrently with the provisions of the criminal laws in force in the States and Territories as applying by virtue of this Act.

16 Presumption of jurisdiction

In any proceedings in which an act that is shown to have been committed is alleged to have been committed in the course of such a voyage, or in such a place, that a provision of the criminal laws in force in a State or Territory applies, or is deemed to have applied, by virtue of this Act to the act, it shall be presumed,

unless the contrary is established, that the act was committed in the course of such a voyage or in such a place.

17 Stay of proceedings

(1) Where proceedings are instituted against a person for an offence against a provision of the criminal laws in force in a State or Territory as applying by virtue of this Act, a Judge of a Court of a State or Territory who is authorized by subsection (4) may, of his own motion or on application made to him, order, on such conditions (if any) as he thinks fit, a stay of the proceedings for such period as he thinks fit if he is satisfied that:

(a) other proceedings have been, or are proposed to be, instituted against that person for an offence against that provision, against another provision of a law of the Commonwealth, or against a provision of a law of a State or Territory, in relation to the same act; and

(b) it is expedient that the proceedings should be stayed.

(2) In deciding whether it is expedient that proceedings against a person should be stayed under this section, a Judge shall have regard to all relevant matters including:

(a) whether the continuation of the proceedings would impose any special hardship on the person, including any hardship that would arise by reason of his absence for a substantial period during the hearing of the proceedings from his place of residence, business or employment;

(b) the need for the person to receive a speedy trial; and

(c) whether the continuation of the proceedings would be inconvenient to other persons who are to be called as witnesses at the hearing of the proceedings.

(3) Where a Judge orders a stay of proceedings in pursuance of this section, he may make such orders as he thinks fit:

(a) for the remand of the accused person, in custody or on bail; and

(b) for recognizances of witnesses, or the variation of such recognizances already entered into;

to secure their attendance at any resumed hearing of the proceedings, and may make such other orders as he considers to be incidental to the stay of the proceedings.

(4) The power conferred by this section to make an order staying proceedings instituted against a person may be exercised:

(a) where the proceedings sought to be stayed are proceedings upon indictment before a Judge of a Court of a State or Territory—by that Judge; and

(b) in any other case—by a Judge of the Supreme Court of the State or Territory in which the proceedings were instituted.

17A Transit of persons accused of offences against the laws of East Timor

(1) Where East Timor wishes to transport in custody through Australia a person (in this section called ***the accused***) who has been arrested for an offence against a criminal law in force in East Timor that applies in Area A of the Zone of Cooperation, the following provisions apply:

(a) the accused may be transported in custody through Australia;

(b) if an aircraft or ship transporting the accused makes a landing or calls at a place in Australia:

(i) the person holding the accused in custody before the landing or call is made may hold the accused in custody for a period not exceeding 24 hours;

(ii) any police officer may provide such assistance as is reasonable and necessary to facilitate the transport of the accused in custody;

(iii) any magistrate to whom application is made, according to the regulations, on behalf of East Timor is required to issue a warrant ordering a person specified in the warrant to hold the accused in custody for such period or periods as the magistrate considers necessary to facilitate the transport of the accused in custody;

(iv) the Attorney-General may, on application on behalf of East Timor, authorise, in writing, a magistrate to issue a

warrant ordering a person specified in the warrant to hold the accused in custody for a further specified period in order to facilitate the transport of the accused in custody;

(v) the Attorney-General may at any time direct a person having custody of the accused under this paragraph to release the accused;

(vi) the total period of custody under subparagraphs (b)(i) and (iii) must not exceed 96 hours.

(2) Any police officer may, without warrant, arrest a person if the officer has reasonable grounds for believing that the person has escaped from custody authorised by subsection (1).

(3) A person who has been arrested under subsection (2) must be returned to the custody from which he or she escaped.

(4) For the purposes of this section, a place at which an aircraft or ship begins its journey or voyage is to be treated as a place at which the aircraft has landed, or the ship has called, as the case requires.

(5) In this section:

police officer means a member or special member of the Australian Federal Police or a member of the police force of a State or Territory.

17B Agreements relating to enforcement of criminal laws in Area A

(1) The regulations may make provision for giving effect to any agreements or arrangements between Australia and East Timor relating to the enforcement of criminal laws applying to acts done in Area A of the Zone of Cooperation.

(2) The provisions that may be made include, but are not limited to:

(a) provisions relating to the production of documents, the summoning of witnesses and the taking of evidence by authorities of East Timor for use in proceedings in Australia; and

(b) provisions relating to:

(i) the apprehension and detention in Area A, by authorities of East Timor, of persons accused of

offences against criminal laws of Australia applied by subsection 9A(1); and

(ii) the transport and surrender, whether in Area A or elsewhere, of such persons to Australian authorities; and

(c) provisions relating to:

(i) the apprehension and detention in Area A, by Australian authorities, of persons accused of offences against criminal laws in force in East Timor; and

(ii) the transport and surrender, whether in Area A or elsewhere, of such persons to authorities of East Timor; and

(d) provisions prescribing the practice and procedure of magistrates in the performance of functions under regulations made for the purposes of this section.

(3) Provisions referred to in paragraph (2)(b) or (c) may not authorise the detention of a person beyond the time at which it first becomes practicable to surrender the person to an appropriate authority of Australia or East Timor.

(4) Where regulations make provision of a kind referred to in paragraph (2) (c), the *Extradition Act 1988* does not apply in relation to an offence against a law of a kind referred to in that paragraph.

18 Regulations

(1) 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.

(2) Without limiting the generality of subsection (1), the regulations may provide that such provisions or classes of provisions of the criminal laws in force in a State or Territory as are specified in the regulations:

(a) do not apply by virtue of this Act;

(b) do not apply by virtue of this Act to acts or classes of acts specified in the regulations; or

(c) do not apply by virtue of this Act in circumstances specified in the regulations.

Notes to the *Crimes at Sea Act 1979*

Note 1

The *Crimes at Sea Act 1979* as shown in this compilation comprises Act No. 17, 1979 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Crimes at Sea Act 1979	17, 1979	22 Mar 1979	1 Nov 1979 (*see Gazette* 1979, No. S219)	
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	Part XXIII (ss. 66, 67): 16 Dec 1985 *(a)*	—
Law and Justice Legislation Amendment Act 1988	120, 1988	14 Dec 1988	Part VI (ss. 23, 24): 1 Mar 1989 (*see* s. 2(2) and *Gazette* 1989, No. S54) *(b)*	—
Crimes Legislation Amendment Act (No. 2) 1989	4, 1990	17 Jan 1990	S. 34: 17 July 1990 *(c)*	—
Petroleum (Australia-Indonesia Zone of Cooperation) (Consequential Provisions) Act 1990	37, 1990	7 June 1990	18 Feb 1991 (*see* s. 2 and *Gazette* 1991, No. S47)	—
Fisheries Legislation (Consequential Provisions) Act 1991	163, 1991	10 Nov 1991	Ss. 1 and 2: 10 Nov 1991 Remainder: 3 Feb 1992 (*see Gazette* 1992, No. GN1)	—
Crimes (Search Warrants and Powers of Arrest) Amendment Act 1994	65, 1994	30 May 1994	30 Nov 1994	—
Crimes Amendment (Forensic Procedures) Act 1998	96, 1998	23 July 1998	Schedule 3 (item 2): 23 Jan 1998 *(d)*	—
Crimes at Sea Act 2000	13, 2000	31 Mar 2000	Ss. 1 and 2: Royal Assent Remainder: 31 Mar 2001	Sch. 2 (item 11)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Timor Gap Treaty (Transitional Arrangements) Act 2000	25, 2000	3 Apr 2000	Ss. 4-7 and Schedule 2 (items 1-17): 26 Oct 1999 *(e)*	Ss. 4-7, Sch. 2 (item 17)

Act Notes

(a) The *Crimes at Sea Act 1979* was amended by Part XXIII (sections 66 and 67) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(6) of which provides as follows:

> (6) Part XVII, Division 2 of Part XVIII and Parts XXII, XXIII and LXIV shall come into operation, or shall be deemed to have come into operation, as the case requires, immediately after the commencement of section 8 of the *Crimes Amendment Act 1982.*

(b) The *Crimes at Sea Act 1979* was amended by Part VI (sections 23 and 24) only of the *Law and Legislation Amendment Act 1988*, subsection 2(2) of which provides as follows:

> (2) Parts V, VI and XVII commence, or shall be taken to have commenced as the case requires, at the commencement of section 22 of the *Crimes Legislation Amendment Act 1987.*

(c) The *Crimes at Sea Act 1979* was amended by section 34 only of the *Crimes Legislation Amendment Act (No. 2) 1989*, subsections 2(13) and (14) of which provide as follows:

> (13) Subject to subsection (14), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
>
> (14) If a provision referred to in subsection (13) does not commence under that subsection within the period of 6 months beginning on the day it receives the Royal Assent, it commences on the first day after the end of that period.

(d) The *Crimes at Sea Act 1979* was amended by Schedule 2 (item 2) of the *Crimes Amendment (Forensic Procedures) Act 1998*, subsections 2(3) and (4) which provides as follows:

> (3) Subject to subsection (4), Schedules 1 and 3, and the remaining items of Schedule 2, commence on a day to be fixed by Proclamation.
>
> (4) If the provisions specified in subsection (3) have not commenced under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, those provisions commence on the first day after the end of that period.

(e) The *Crimes at Sea Act 1979* was amended by Schedule 2 (items 1-16) only of the *Timor Gap Treaty (Transitional Arrangements) Act 2000*, subsection 2(2) of which provides as follows:

> (2) Sections 3 to 7 and Schedules 1 and 2 (other than items 18 to 25 of Schedule 2) are taken to have commenced at the transition time. [*see* Table A]

Table of Amendments

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

Provision affected	How affected
S. 3	am. No. 37, 1990; No. 163, 1991; No. 25, 2000
S. 5	am. No. 80, 1982; No. 120, 1988; No. 4, 1990; No. 65, 1994; No. 96, 1998
S. 7	am. No. 163, 1991
Heading to s. 9A	am. No. 25, 2000
S. 9A	ad. No. 37, 1990 am. No. 25, 2000
Heading to s. 17A	am. No. 25, 2000
S. 17A	ad. No. 37, 1990 am. No. 25, 2000
S. 17B	ad. No. 37, 1990 am. No. 25, 2000

Table A

Table A

Application, saving or transitional provisions

Crimes At Sea Act 2000 (No. 13, 2000)

Schedule 2

11 Application of amendments

(1) The amendments made by this Schedule apply to acts and omissions that take place after this Schedule commences.

(2) Although this Schedule repeals the *Crimes at Sea Act 1979*, that Act continues to apply, in relation to acts and omissions that took place before this Schedule commences, as if the repeal had not happened.

(3) For the purposes of this item, if an act or omission is alleged to have taken place between two dates, one before and one on or after the day on which this Schedule commences, the act or omission is alleged to have taken place before this Schedule commences.

Timor Gap Treaty (Transitional Arrangements) Act 2000 (No. 25, 2000)

4 The transition time

In this Act:

transition time means 1.23 am Australian Central Standard Time on 26 October 1999.

Note: This time corresponds to the time in New York when the United Nations Security Council adopted Resolution 1272 (1999), which established UNTAET and gave it responsibility for the administration of East Timor. In 2000 the text of the Resolution was available in the Library of the Department of Foreign Affairs and Trade and accessible on the Internet through the Department's or the United Nations' world-wide web site.

Table A

5 Validity of things done by the Ministerial Council and the Joint Authority

(1) Any thing done by the Ministerial Council or the Joint Authority, during the period commencing on the transition time and ending on 5.55 pm Australian Central Standard Time on 10 February 2000, is not invalid:

(a) merely because the Republic of Indonesia ceased to be a party to the Treaty, and UNTAET became a party to the Treaty, at the transition time; or

(b) merely because of an invalidity in the membership of the Ministerial Council or the Joint Authority.

(2) In this section:

Joint Authority and ***Ministerial Council*** have the meanings given them by subsection 5(1) of the *Petroleum (Timor Gap Zone of Cooperation) Act 1990*.

Treaty has the meaning given by subsection 5(1) of the *Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990* (as in force immediately before the transition time).

UNTAET means the United Nations Transitional Administration in East Timor.

6 Protection against retrospective criminal liability

A person does not commit an offence if the person would not have committed the offence had the amendments made by the items in Schedules 1 and 2 (other than items 18 to 25 of Schedule 2) commenced on the day on which this Act received the Royal Assent (rather than commencing at the transition time).

7 Preservation of immunity from prosecution

If a person would have had an immunity from proceedings under subsection 9A(3) of the *Crimes at Sea Act 1979* but for the amendments made by items 5 and 6 of Schedule 2 commencing retrospectively at the transition time, the person has that immunity by virtue of this section.

Table A

Schedule 2

17 Application

Section 9A of the *Crimes at Sea Act 1979*, as in force immediately before the transition time, continues to apply to acts covered by it (as so in force) done before the transition time.