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About this compilation

This compilation

This is a compilation of the *Australian Federal Police Act 1979* that shows the text of the law as amended and in force on 18 December 2020 (the ***compilation date***).

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

Uncommenced amendments

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

Application, saving and transitional provisions for provisions and amendments

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

Editorial changes

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

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 the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish the Australian Federal Police, and for related purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Australian Federal Police Act 1979*.

2 Commencement

(1) Sections 1, 2, 4 and 6, Division 1 of Part IV and sections 28 and 70 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

3 Repeal

The *Commonwealth Police Act 1957* is repealed.

3A Overview of Act

Constitution of the Australian Federal Police

(1) Division 1 of Part II of this Act provides that the Australian Federal Police consists of a Commissioner of Police, one or more Deputy Commissioners of Police, AFP employees, special members and special protective service officers.

Commissioner and Deputy Commissioners

(2) The Commissioner and Deputy Commissioners are appointed by the Governor-General. Division 1 of Part III sets out matters dealing with such appointments.

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AFP employees

(3) The Commissioner may engage persons as AFP employees. Division 2 of Part III covers matters to do with the employment of AFP employees. For example, it deals with the remuneration and terms and conditions of employment of AFP employees, how AFP employees can resign or retire and how the Commissioner may terminate the employment of AFP employees.

Members of the Australian Federal Police

(4) The Commissioner and any Deputy Commissioner are members of the Australian Federal Police. Under Division 2 of Part IV, the Commissioner may declare AFP employees to be members and certain members may be declared to be commissioned police officers. Under Division 1 of Part II, members provide police services and that Division also deals with powers of members.

Special members of the Australian Federal Police

(5) Under Division 3 of Part IV, the Commissioner may appoint persons as special members to assist the Australian Federal Police in carrying out its functions.

Protective service officers of the Australian Federal Police

(5A) Under Division 3A of Part IV, the Commissioner may declare AFP employees to be protective service officers. Divisions 3 and 4 of Part II deal with the powers of protective service officers.

Special protective service officers of the Australian Federal Police

(5B) Under Division 3B of Part IV, the Commissioner may appoint persons as special protective service officers to assist in performing protective service functions.

Commissioner's command powers

(6) The Commissioner has the general administration of, and the control of the operations of, the Australian Federal Police. Part IV

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is mainly about the Commissioner's command powers. For example, the Commissioner may determine the duties of AFP employees and where those duties are to be performed. Other topics covered by that Part include secondment and drug testing.

Professional standards and dealing with AFP conduct or practices issues

(6A) Part V provides for the setting of AFP professional standards and the way in which AFP conduct or practices issues are raised and dealt with.

Other matters

(7) This Act also:

(a) deals with the use of listening devices in relation to offences (see Division 2 of Part II); and

(aa) deals with the powers of protective service officers and certain other powers relating to protective service functions (see Divisions 3 and 4 of Part II); and

(b) deals with when AFP employees lose certain superannuation rights and benefits (see Part VA); and

(c) deals with other matters such as secrecy obligations, offences and certain administrative matters (all of which are contained in Part VI).

4 Interpretation

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

adjustment payment means a payment made in accordance with a determination that is continued in force by item 8 of Part 1 of Schedule 3 to the *Australian Federal Police Legislation Amendment Act 2000* (including a payment made in accordance with such a determination as amended or varied in accordance with that item).

AFP appointee means:

(a) a Deputy Commissioner; or

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(b) an AFP employee; or
(c) a special member; or
(d) a special protective service officer; or
(e) a person engaged overseas under section 69A to perform duties overseas as an employee of the Australian Federal Police; or
(f) a person who is:
(i) engaged under section 35 as a consultant, or independent contractor, to perform services for the Australian Federal Police; and
(ii) a consultant, or independent contractor, determined by the Commissioner under subsection 35(2) to be an AFP appointee for the purposes of this paragraph; or
(g) a person who is assisting the Australian Federal Police in the performance of its functions under an agreement under section 69D.

AFP conduct issue has the meaning given by sections 40RH and 40RJ.

AFP conduct or practices issue means:
(a) an AFP conduct issue; or
(b) an AFP practices issue.

AFP employee means a person engaged under section 24.

AFP practices issue has the meaning given by section 40RI and 40RJ.

AFP professional standards means professional standards determined under Commissioner's orders made for the purposes of section 40RC.

alcohol screening test in relation to a person, means a test of sample of the breath of the person carried out by means of an approved screening device.

approved screening device means a device of a type that is approved by the Minister under section 40R.

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authority of a State or Territory means:

(a) a body, whether incorporated or unincorporated, established for a public purpose by or under a law of that State or Territory, other than a body that, under the regulations, is not to be taken to be an authority of that State or Territory for the purposes of this Act; or

(b) any other body declared by the regulations to be an authority of that State or Territory for the purposes of this Act, being:

(i) a body, whether incorporated or unincorporated, established by the Governor, or a Minister of the Crown, of that State or, in the case of the Northern Territory, a Minister; or

(ii) an incorporated company in which that State or Territory, or a body corporate falling within paragraph (a) or subparagraph (i), has a controlling interest.

authority of the Commonwealth means:

(a) a body, whether incorporated or unincorporated, established for a public purpose by or under a law of the Commonwealth, other than a body that, under the regulations, is not to be taken to be an authority of the Commonwealth for the purposes of this Act; or

(b) any other body declared by the regulations to be an authority of the Commonwealth for the purposes of this Act, being:

(i) a body, whether incorporated or unincorporated, established by the Governor-General or by a Minister; or

(ii) an incorporated company in which the Commonwealth or a body corporate falling within paragraph (a) or subparagraph (i) of this paragraph has a controlling interest.

blood test means a test of a person's blood to determine the amount of alcohol (if any) in the person's blood.

body sample means any of the following:

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(a) any human biological fluid;
(b) any human biological tissue (whether alive or otherwise);
(c) any human breath.

breath test means a test of a person's breath to determine the amount of alcohol (if any) in the person's blood.

category 1 conduct has the meaning given by section 40RN.

category 1 conduct issue has the meaning given by subsection 40RL(1).

category 2 conduct has the meaning given by section 40RO.

category 2 conduct issue has the meaning given by subsection 40RL(2).

category 3 conduct has the meaning given by section 40RP.

category 3 conduct issue has the meaning given by subsection 40RL(3).

commissioned police officer means any member in respect of whom a declaration under section 40D is in force.

Commissioner means the Commissioner of Police referred to in section 6.

Commissioner's Orders means orders under section 38.

complainant has the meaning given by subsection 40SA(3).

corrupt conduct: see ***engages in corrupt conduct***.

corruption issue has the same meaning as in the *Law Enforcement Integrity Commissioner Act 2006*.

CSC (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

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Deputy Commissioner means a Deputy Commissioner of Police referred to in section 6.

duties includes responsibilities.

eligible employee has the same meaning as in the *Superannuation Act 1976*.

engages in corrupt conduct has the same meaning as in the *Law Enforcement Integrity Commissioner Act 2006*.

federal aspect, in relation to an offence against a law of a State or of the Australian Capital Territory, has the meaning given by subsection 4AA(1).

Note: This subsection defines ***State*** to include the Northern Territory.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

frisk search means:

(a) a search of a person conducted by quickly running the hands over the person's outer garments; and

(b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

give information that raises an AFP conduct or practices issue has a meaning affected by subsection (3).

intelligence or security agency means an authority or person responsible for intelligence gathering for, or the security of, a country or a part of a country.

international organisation includes:

(a) a public international organisation within the meaning of section 70.1 of the *Criminal Code*; and

(b) a body (including an international judicial body):

(i) established by or under an international agreement or international arrangement or otherwise under international law; or

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(ii) established by a body described in subparagraph (i); or

(iii) on which functions are conferred by or under an international agreement.

investigator for a category 3 conduct issue, or a corruption issue, means the person to whom the issue is allocated for investigation under section 40TN or 40TO.

law enforcement agency means an authority or person responsible for the enforcement of laws.

manager for a category 1 conduct issue, or category 2 conduct issue, means the person to whom the issue is allocated in accordance with Commissioner's orders issued for the purposes of subsection 40TA(1).

member means a member of the Australian Federal Police.

member of the Australian Federal Police means any of the following:

(a) the Commissioner of Police;

(b) a Deputy Commissioner of Police;

(c) an AFP employee in respect of whom a declaration under section 40B is in force.

member of the unit constituted under section 40RD means:

(a) the AFP appointee appointed as the head of that unit under section 40RE; and

(b) any member, or special member, of the Australian Federal Police assigned to that unit under section 40RF.

ordinary search means a search of a person or of articles in the possession of a person that may include:

(a) requiring the person to remove his or her overcoat, coat or jacket and any gloves, shoes and hat; and

(b) an examination of those items.

overseas means outside Australia and the Territories.

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pensioner means:

(a) a person to whom an invalidity pension within the meaning of the Superannuation Act is payable;

(b) a person to whom a pension is payable under the *Superannuation Act 1922* and who has been retired on the ground of invalidity or of physical or mental incapacity to perform his or her duties; or

(c) a person to whom a pension referred to in paragraph (a) or (b) would be payable if payment had not been suspended.

police services includes services by way of the prevention of crime and the protection of persons from injury or death, and property from damage, whether arising from criminal acts or otherwise.

police support services means services related to:

(a) the provision of police services by an Australian or foreign law enforcement agency; or

(b) the provision of services by an Australian or foreign intelligence or security agency; or

(c) the provision of services by an Australian or foreign regulatory agency.

powers includes authorities, rights, privileges and immunities.

practices or procedures of the Australian Federal Police has the meaning given by subsection 40RI(3).

prohibited drug means:

(a) a narcotic substance (within the meaning of the *Customs Act 1901*); or

(b) any drug specified in a determination under section 4A.

prohibited drug test means a test of a body sample of a person to determine the presence (if any) of a prohibited drug in the sample.

protective service functions means the functions designated by the Minister under section 8A.

protective service offence means any of the following:

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(a) an offence in relation to a person, place or thing in respect of which the Australian Federal Police is performing protective service functions, being an offence under:
  (i) subsection 3UU(1) or section 46, 47, 47A, 89 or 89A of the *Crimes Act 1914*; or
  (ii) the *Crimes (Internationally Protected Persons) Act 1976* or Part 2 of the *Crimes (Aviation) Act 1991*; or
  (iia) Division 82 of the *Criminal Code* (sabotage); or
  (iib) Division 91 of the *Criminal Code* (espionage); or
  (iic) Part 5.6 of the *Criminal Code* (secrecy); or
  (iid) section 132.8A of the *Criminal Code* (damaging Commonwealth property); or
  (iii) the *Defence (Special Undertakings) Act 1952* (other than subsection 31(2)); or
  (iiia) an offence against section 71V, 71W or 72P of the *Defence Act 1903*; or
  (iv) the *Public Order (Protection of Persons and Property) Act 1971* (other than section 11); or
  (v) the *Nuclear Non-Proliferation (Safeguards) Act 1987* (other than section 25A, 27 or 28A, subsection 29(2), 29A(1), 30(1), 40(1), 58(2) or 65(1) or section 66); or
  (va) the *Aviation Transport Security Act 2004* or regulations made under that Act;
(b) an offence against section 6 of the *Crimes Act 1914*, or section 11.1 or 11.4 of the *Criminal Code*, that relates to an offence mentioned in paragraph (a);
(c) an offence against Subdivision A of Division 72 of the *Criminal Code* that relates to a person, place or thing in respect of which the Australian Federal Police is performing protective service functions;
(d) an offence against Division 101 of the *Criminal Code* that relates to a person, place or thing in respect of which the Australian Federal Police is performing protective service functions;
(e) an offence in relation to a person, place or thing in respect of which the Australian Federal Police is performing protective

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service functions, being an offence against section 131.1, 141.1, 142.1, 147.1, 148.1 or 149.1 of the *Criminal Code*.

protective service officer means an AFP employee in respect of whom a declaration under section 40EA is in force.

regulatory agency means an authority or person who performs regulatory functions for a country or part of a country.

remedial action has the meaning given by section 40TD.

resign means resign from the Australian Federal Police.

retire means retire from the Australian Federal Police.

senior executive AFP employee means an AFP employee in respect of whom a declaration under section 25 is in force.

serious misconduct has the meaning given by section 40K.

special member means a person appointed under section 40E.

special protective service officer means a person appointed under section 40EC.

State includes the Northern Territory.

Superannuation Act means the *Superannuation Act 1976* or the *Superannuation Act 1990*.

termination action has the meaning given by section 40TE.

training and development action has the meaning given by section 40TC.

(2) A reference in this Act to an officer of police shall be read as including a reference to a police officer, or to any member of a police force, however described.

(3) A reference in Part V to ***giving information*** that raises an AFP conduct or practices issue includes a reference to making a complaint or report that raises an AFP conduct or practices issue.

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4AA State offences that have a federal aspect

Object

(1A) The object of this section is to identify State offences that have a federal aspect because:

(a) they potentially fall within Commonwealth legislative power because of the elements of the State offence; or

(b) they potentially fall within Commonwealth legislative power because of the circumstances in which the State offence was committed (whether or not those circumstances are expressed to be acts or omissions involved in committing the offence); or

(c) the Australian Federal Police investigating them is incidental to the Australian Federal Police investigating an offence against a law of the Commonwealth or a Territory.

State offences that have a federal aspect

(1) For the purposes of this Act, a State offence has a ***federal aspect*** if, and only if:

(a) both:

(i) the State offence is not an ancillary offence; and

(ii) assuming that the provision creating the State offence had been enacted by the Parliament of the Commonwealth instead of by the Parliament of the State—the provision would have been a valid law of the Commonwealth; or

(b) both:

(i) the State offence is an ancillary offence that relates to a particular primary offence; and

(ii) assuming that the provision creating the primary offence had been enacted by the Parliament of the Commonwealth instead of by the Parliament of the State—the provision would have been a valid law of the Commonwealth; or

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(c) assuming that the Parliament of the Commonwealth had enacted a provision that created an offence penalising the specific acts or omissions involved in committing the State offence—that provision would have been a valid law of the Commonwealth; or

(d) both:

(i) the Australian Federal Police is investigating an offence against a law of the Commonwealth or a Territory; and

(ii) if the Australian Federal Police is investigating, or were to investigate, the State offence—that investigation is, or would be, incidental to the investigation mentioned in subparagraph (i).

Specificity of acts or omissions

(2) For the purposes of paragraph (1)(c), the specificity of the acts or omissions involved in committing a State offence is to be determined having regard to the circumstances in which the offence was committed (whether or not those circumstances are expressed to be elements of the offence).

State offences covered by paragraph (1)(c)

(3) A State offence is taken to be covered by paragraph (1)(c) if the conduct constituting the State offence:

(a) affects the interests of:

(i) the Commonwealth; or

(ii) an authority of the Commonwealth; or

(iii) a constitutional corporation; or

(b) was engaged in by a constitutional corporation; or

(c) was engaged in in a Commonwealth place; or

(d) involved the use of a postal service or other like service; or

(e) involved an electronic communication; or

(f) involved trade or commerce:

(i) between Australia and places outside Australia; or

(ii) among the States; or

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(iii) within a Territory, between a State and a Territory or between 2 Territories; or

(g) involved:

(i) banking (other than State banking not extending beyond the limits of the State concerned); or

(ii) insurance (other than State insurance not extending beyond the limits of the State concerned); or

(h) relates to a matter outside Australia; or

(i) relates to a matter in respect of which an international agreement to which Australia is a party imposes obligations to which effect could be given by the creation of an offence against the domestic laws of the parties to the agreement; or

(j) relates to a matter that affects the relations between Australia and another country or countries or is otherwise a subject of international concern.

(4) Subsection (3) does not limit paragraph (1)(c).

Definitions

(5) In this section:

ancillary offence, in relation to an offence (the ***primary offence***), means:

(a) an offence of conspiring to commit the primary offence; or

(b) an offence of aiding, abetting, counselling or procuring, or being in any way knowingly concerned in, the commission of the primary offence; or

(c) an offence of attempting to commit the primary offence.

authority of the Commonwealth has the same meaning as in section 3AA of the *Crimes Act 1914*.

Commonwealth place has the same meaning as in the *Commonwealth Places (Application of Laws) Act 1970*.

conduct has the same meaning as in the *Criminal Code*.

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constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

electronic communication means a communication of information:

(a) whether in the form of text; or
(b) whether in the form of data; or
(c) whether in the form of speech, music or other sounds; or
(d) whether in the form of visual images (animated or otherwise); or
(e) whether in any other form; or
(f) whether in any combination of forms;

by means of guided and/or unguided electromagnetic energy.

engage in conduct has the same meaning as in the *Criminal Code*.

State includes the Australian Capital Territory and the Northern Territory.

State offence means an offence against a law of a State.

4A Commissioner may specify prohibited drugs

The Commissioner may, by written determination, specify drugs for the purposes of the definition of ***prohibited drug*** in section 4.

5 References in other laws

(1) In a law of the Commonwealth or of the Australian Capital Territory:

(a) a reference to a Commonwealth Police Officer shall be read as a reference to a member of the Australian Federal Police;
(b) a reference to the Commonwealth Police Force shall be read as a reference to the Australian Federal Police;
(c) a reference to the Police Force of that Territory shall be read as a reference to the Australian Federal Police;
(d) a reference to an officer of police of that Territory shall be read as a reference to a member of the Australian Federal Police; and

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(e) a reference to the Commissioner of Police of that Territory, however described, shall be read as a reference to the Commissioner.

(1A) Where a reference in a law of the Commonwealth that does not specify the Australian Capital Territory is, in effect, a reference to, or a reference that includes, that Territory, that reference shall, for the purposes of subsection (1), be taken to be a reference to that Territory.

(2) If:

(a) a provision of a law is, by virtue of subsection (1), to be read as referring to a member of the Australian Federal Police holding a particular rank; and

(b) a declaration is in force under subsection (3) that a member is of that rank for the purposes of this paragraph;

the provision of the law is to be read as referring to the member to whom the declaration applies.

(3) The Commissioner may, by writing, declare that a member is of a particular rank for the purposes of paragraph (2)(b).

5A Application and extension of Act and regulations

(1) This Act and the regulations apply throughout the whole of Australia and also outside Australia.

(2) This Act and the regulations extend to the external Territories.

5B Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Part II—Constitution, functions and powers of the Australian Federal Police

Division 1—Constitution, functions and laws conferring powers on members etc.

6 Constitution of the Australian Federal Police

(1) The Australian Federal Police consists of:
  (a) the Commissioner of Police; and
  (b) any Deputy Commissioner of Police; and
  (c) AFP employees; and
  (d) special members; and
  (e) special protective service officers.

(2) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
  (a) the Australian Federal Police is a listed entity; and
  (b) the Commissioner of Police is the accountable authority of the Australian Federal Police; and
  (c) the persons referred to in subsection (1) are officials of the Australian Federal Police; and
  (d) the purposes of the Australian Federal Police include the functions of the Australian Federal Police referred to in section 8.

8 Functions

(1) The functions of the Australian Federal Police are:
  (a) subject to subsection (1A), the provision of police services in relation to the Australian Capital Territory; and
  (aa) the provision of police services in relation to the Jervis Bay Territory; and
  (b) the provision of police services in relation to:

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(i) laws of the Commonwealth;
(ii) property of the Commonwealth (including Commonwealth places) and property of authorities of the Commonwealth; and
(iii) the safeguarding of Commonwealth interests; and

(baa) the investigation of State offences that have a federal aspect; and

(ba) the provision of services in accordance with arrangements entered into under subsection (1C) and doing anything else included in the arrangements that is incidental or conducive to the provision of the services; and

(bb) to perform the functions conferred by the *Witness Protection Act 1994*; and

(bc) to perform the functions conferred by a law of a State or Territory that is a complementary witness protection law for the purposes of the *Witness Protection Act 1994*; and

(bd) to perform functions under the *Proceeds of Crime Act 2002*; and

(be) to perform such protective and custodial functions as the Minister directs by notice in writing in the *Gazette*, being functions that relate to a person, matter or thing with respect to which the Parliament has legislative power; and

(bf) the provision of police services and police support services for the purposes of assisting, or cooperating with, an Australian or foreign:
(i) law enforcement agency; or
(ii) intelligence or security agency; or
(iii) government regulatory agency; and

(bg) the provision of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries; and

(bh) to assist or cooperate with:
(i) an international organisation; or
(ii) a non-governmental organisation, in relation to acts, omissions, matters or things outside Australia;

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in relation to the provision of police services or police support services; and

(c) to do anything incidental or conducive to the performance of the foregoing functions.

Note: For State offences that have a federal aspect, see section 4AA.

(1A) The Minister and the Australian Capital Territory may enter into arrangements for the provision of the police services in relation to the Australian Capital Territory that are in respect of Territory functions as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, and, where the arrangements have been entered into, the provision of those services shall be in accordance with the arrangements.

(1B) The Minister shall try to enter into the first such arrangement before 1 July 1990.

(1C) The Minister may enter into an arrangement with:

(a) the Minister administering the Department that deals with the administration of an external Territory; or

(b) the Administrator (if any) of an external Territory;

for the provision of police services and regulatory services for that Territory.

(1D) The provision of police services and regulatory services in an external Territory must be in accordance with any arrangements in force under subsection (1C) for the Territory.

(2) The provision of police services in relation to a Commonwealth place in a State, being services by way of the investigation of offences against the laws of that State having application in relation to that place by virtue of the *Commonwealth Places (Application of Laws) Act 1970*, shall be in accordance with arrangements made between the Commissioner and the Commissioner of Police (however designated) of that State.

(2B) Arrangements for the provision of services under subsection (1A) or (1C) may include arrangements for the doing of anything incidental or conducive to the provision of the services.

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(3) In this section:

Commonwealth place has the same meaning as in the *Commonwealth Places (Application of Laws) Act 1970*.

8A Minister may direct which functions are protective service functions

The Minister may, by notice published in the *Gazette*, direct that certain protective and custodial functions of the Australian Federal Police are protective service functions.

9 Laws conferring powers on members

(1) In addition to any other powers and duties, a member has:

(a) the powers and duties that are conferred or imposed by or under a law of the Commonwealth on:

(i) a constable; or

(ii) a constable of a particular rank, if a declaration under subsection (2A) is in force that the member is of that rank for the purposes of this subparagraph; and

(b) when performing functions in the Australian Capital Territory—the powers and duties conferred or imposed on a constable or on an officer of police by or under any law (including the common law) of the Territory; and

(ba) when performing functions in the Jervis Bay Territory—the powers and duties conferred or imposed on a constable or an officer of police by or under any law (including the common law) of the Territory; and

(bb) when performing functions in an External Territory—the powers and duties conferred or imposed on a constable or an officer of police by or under any law (including the common law) of the Territory; and

(bc) when performing functions in the Northern Territory:

(i) the powers and duties conferred or imposed on a constable or an officer of police by or under any law (including the common law) of the Territory; and

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(ii) any powers and duties conferred on the member by virtue of his or her appointment as a Special Constable of the Police Force of the Northern Territory by or under a law of the Territory; and

(c) in relation to the following:

(i) the laws of the Commonwealth;

(ii) matters in connection with property of the Commonwealth or of an authority of the Commonwealth;

(iii) matters arising on or in connection with land or premises owned or occupied by the Commonwealth or an authority of the Commonwealth;

(iv) the safeguarding of Commonwealth interests;

(iva) the investigation of State offences that have a federal aspect;

the powers and duties that are conferred or imposed, in the place in which the member is acting, on:

(v) a constable or an officer of police; or

(vi) a constable, or an officer of police, of a particular rank, if a declaration under subsection (2B) is in force that the member is of that rank for the purposes of this subparagraph.

(2) Where any provisions of a law of a State apply in relation to offences against the laws of the Commonwealth or of a Territory, those provisions so apply as if:

(a) any reference in those provisions to a constable or to an officer of police included a reference to a member; and

(b) if a declaration is in force under subsection (2B) that a member is of a particular rank for the purposes of this paragraph—any reference in those provisions to an officer of police of that rank included a reference to the member.

(2A) The Commissioner may, by writing, declare that a member is of a particular rank for the purposes of subparagraph (1)(a)(ii).

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(2B) The Commissioner may, by writing, declare that a member is of a particular rank (the ***State law rank***) for the purposes of subparagraph (1)(c)(vi) or paragraph (2)(b) if:

(a) a declaration is in force under subsection (2A) that the member is of a particular rank (the ***Commonwealth law rank***); and

(b) the Commissioner considers the State law rank is equivalent to the Commonwealth law rank.

(2C) Unless it ceases to be in force sooner, a declaration under subsection (2B) ceases to be in force when the declaration under subsection (2A) ceases to be in force.

(3) In paragraph (1)(a):

constable includes a member of the Police Force of a State or Territory.

10 Appointment of members to other Police Forces

Nothing in this Act is intended to prevent a member or special member from being appointed (including at a particular rank) as:

(a) a member, however described, of the police force of a State or Territory; or

(b) a special constable, however described, of the police force of a State or Territory; or

(c) a member, however described, of a police force or other law enforcement agency of a foreign country.

11 State and Territory writs and warrants

Where a writ or warrant is issued under the law of a State or Territory in relation to an offence or other matter under a law of the Commonwealth or of a Territory, the writ or warrant may be executed by a member, notwithstanding that it is not addressed to a member and notwithstanding any requirement of the law of the State or Territory as to the person by whom it may be executed.

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12 Immunities from certain State and Territory laws

The Commissioner, a Deputy Commissioner or an AFP employee is not required under, or by reason of, a law of a State or Territory:

(a) to obtain or have a licence or permission for doing any act or thing in the exercise of his or her powers or the performance of his or her duties as the Commissioner, a Deputy Commissioner or an AFP employee; or

(b) to register any vehicle, vessel, animal or article belonging to the Commonwealth.

12A Immunity from State and Territory laws in relation to entry etc. of police dogs on premises etc.

(1) In this section:

AFP dog means a police dog or a protective service dog that is used by the Australian Federal Police.

AFP dog handler means a member or a protective service officer whose duties as a member or a protective service officer include the duties of an AFP dog handler.

protective service dog means a dog used or trained to assist protective service officers.

(2) Where an AFP dog handler is entitled to enter, or to be on or in, particular premises or a particular place in the performance of the AFP dog handler's duties as a member or a protective service officer, the AFP dog handler is entitled, in entering, or being on or in, the premises or place, to be accompanied by an AFP dog under the control of the AFP dog handler.

(3) The Commonwealth, a member or a protective service officer is not subject to any penalty, liability or forfeiture by reason only of an AFP dog having entered, or having been on or in, particular premises or a particular place if:

(a) the AFP dog is under the control of an AFP dog handler;

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(b) the AFP dog handler is performing the AFP dog handler's duties as a member or protective service officer; and

(c) the AFP dog handler is entitled to enter, or to be on or in, the premises or place.

(4) In any proceeding, a certificate in writing signed by the Commissioner certifying that:

(a) a specified member or specified protective service officer is, or was at a specified time, an AFP dog handler within the meaning of this section; or

(b) a specified dog is, or was at a specified time, an AFP dog within the meaning of this section;

is prima facie evidence of the fact or facts certified.

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Division 3—Powers and duties of protective service officers

14A Powers of arrest

A protective service officer may, without warrant, arrest a person for a protective service offence if the protective service officer believes on reasonable grounds that:

(a) the person has just committed, or is committing, the offence; and

(b) the arrest of the person is necessary for the purpose of:

(i) ensuring the appearance of the person before a court of competent jurisdiction for the offence; or

(ii) preventing the continuation of, or a repetition of, the offence or the commission of a further protective service offence; or

(iii) preventing the concealment, loss or destruction of evidence of, or relating to, the offence; or

(iv) preserving the safety or welfare of the person; and

(c) proceedings by way of summons against the person for the offence would not achieve such a purpose.

14B Use of force in making arrest etc.

(1) A protective service officer must not, in arresting or attempting to arrest a person for an offence or in preventing a person who has been arrested for an offence from escaping, use more force, or subject the person to greater indignity, than is reasonable and necessary in order to make the arrest or prevent the escape of the person.

(2) Without limiting the generality of subsection (1), a protective service officer must not, in arresting or attempting to arrest a person for an offence or in preventing a person who has been arrested for an offence from escaping, do an act likely to cause death or grievous bodily harm to the person unless the officer believes on reasonable grounds that the doing of the act is

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necessary to protect life or prevent serious injury to the officer or any other person.

14C Arrested person to be informed of grounds of arrest

(1) A protective service officer who arrests a person for an offence must inform the person, at the time of the arrest, of the offence for which the person is arrested.

(2) It is sufficient compliance with subsection (1) if the protective service officer informs the person of the substance of the offence, and it is not necessary to do so in language of a precise or technical nature.

(3) Subsection (1) does not apply to the arrest by a protective service officer of a person for an offence if the person, by his or her own actions, makes it impracticable for the protective service officer to inform the person of the offence.

(4) Where a protective service officer who arrests a person for an offence believes or has reasonable grounds for believing that the person is unable, by reason of inadequate knowledge of the English language or any physical or mental disability, to understand the substance of the offence for which the person is arrested, the protective service officer must, as soon as practicable, take all reasonable steps to ensure that the person is provided with an explanation of the substance of the offence that the person is able to understand.

14D Search of arrested person

(1) A protective service officer may, upon lawfully arresting a person for an offence:

(a) conduct an ordinary search or a frisk search of the person; and

(b) search the clothing that the person is wearing and any vessel, vehicle or other property under the person's immediate control if the officer believes on reasonable grounds that it is necessary to do so;

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for the purpose of:

(c) ascertaining whether there is concealed on the person, in the clothing or in the property, a weapon or other thing capable of being used to inflict bodily injury or to assist the person to escape from custody; or

(d) preventing the concealment, loss or destruction of evidence of, or relating to, the offence.

(2) If the protective service officer is not of the same sex as the arrested person, an ordinary search or a frisk search of the arrested person for the purposes of subsection (1) may be conducted by:

(a) if a protective service officer, a member or a special member of the same sex as the arrested person is reasonably available to conduct the search—that protective service officer, member or special member; or

(b) if paragraph (a) does not apply but a police officer or an officer of Customs (within the meaning of subsection 4(1) of the *Customs Act 1901*) who is of the same sex as the arrested person is reasonably available to conduct the search—that police officer or officer of Customs; or

(c) otherwise—any other person who is of the same sex as the arrested person and who is requested by the protective service officer to conduct the search.

(3) An action or proceeding, whether civil or criminal, does not lie against a person who, at the request of a protective service officer, conducts a search under this section if the person acts in good faith and does not contravene subsection (4).

(4) A protective service officer or other person who conducts a search under this section must not use more force, or subject an arrested person to greater indignity, than is reasonable and necessary in order to conduct the search.

(5) A protective service officer or other person who lawfully conducts a search under this section may seize:

(a) any weapon or thing mentioned in paragraph (1)(a); or

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(b) anything that the officer or other person has reasonable grounds to believe is a thing:
  (i) with respect to which an offence has been committed; or
  (ii) that will afford evidence of the commission of an offence; or
  (iii) that was used, or intended to be used, for the purpose of committing an offence.

14E How arrested person to be dealt with

(1) A protective service officer who arrests a person for an offence must ensure that the person is delivered into the custody of a police officer as soon as practicable to be dealt with according to law.

(2) Where a weapon or other thing has been seized from the person under subsection 14D(5), the protective service officer must ensure that the weapon or other thing is delivered to the police officer into whose custody the person is delivered.

(3) In this section:

police officer means:
(a) a member or special member; or
(b) a member, however described, of a police force of a State or Territory; or
(c) a member, however described, of a police force of a foreign country.

14F Release of arrested person

Where:
(a) a person has been arrested by a protective service officer for an offence; and
(b) the person is in the custody of the protective service officer or another protective service officer; and
(c) the protective service officer who has the custody of the person:

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(i) ceases to have reasonable grounds for believing that the person committed, or was committing, an offence; or

(ii) ceases to have reasonable grounds for believing that the holding of the person in custody is necessary in order to achieve a purpose mentioned in paragraph 14A(b), and does not have reasonable grounds for believing that the holding of the person in custody is necessary in order to achieve any other purpose mentioned in that paragraph; or

(iii) ceases to have reasonable grounds for believing that proceedings by way of summons against the person for the offence would not achieve a purpose mentioned in paragraph 14A(b), and does not have reasonable grounds for believing that proceedings by way of summons against the person for the offence would not achieve any other purpose mentioned in that paragraph;

the protective service officer must release the person from custody in respect of the offence as soon as practicable.

14G Relationship of Division to other laws

(1) The power of arrest conferred by section 14A on protective service officers is in addition to, and not in derogation of, powers of arrest available to protective service officers under any other law of the Commonwealth or the law of a State or Territory.

(2) Subject to subsection (3), where a protective service officer, in the course of his or her duties as a protective service officer, arrests a person for any offence (whether the arrest is made under section 14A, under any other law of the Commonwealth or under the law of a State or Territory), sections 14B to 14F apply in relation to the arrest despite any other law of the Commonwealth or the law of a State or Territory.

(3) Subsection (2) has effect subject to sections 252 and 253 of the *Migration Act 1958*.

(4) Subject to subsection (2), the powers conferred, and duties imposed, by this Division on protective service officers are in

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addition to, and not in derogation of, any other powers conferred, or duties imposed, by any other law of the Commonwealth or the law of a State or Territory, and this Division is not intended to exclude or limit the operation of any other law of the Commonwealth or the law of a State or Territory providing for such powers or duties in so far as it is capable of operating concurrently with this Division.

(5) This Division, in so far as it protects the individual, is in addition to, and not in derogation of, any rights and freedoms of the individual, whether under the law of the Commonwealth or of a State or Territory, and this Division is not intended to exclude or limit the operation of any law of the Commonwealth or of a State or Territory providing for those rights and freedoms in so far as it is capable of operating concurrently with this Division.

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Division 4—Powers and duties of members, special members and protective service officers relating to protective service functions

14H Definitions

In this Division:

designated person means:

(a) a member or special member; or

(b) a protective service officer.

police officer means:

(a) a member or special member; or

(b) a member, however described, of a police force of a State or Territory; or

(c) a member, however described, of a police force of a foreign country.

vehicle includes any means of transport (and, without limitation, includes a vessel and an aircraft).

14I Requirement to provide name etc.

(1) If:

(a) a designated person suspects on reasonable grounds that a person (the ***suspect***) might have just committed, might be committing, or might be about to commit, a protective service offence; and

(b) the suspect is in a place, or in the vicinity of a place, person or thing, in respect of which the Australian Federal Police is performing protective service functions;

the designated person may request the suspect to provide to the designated person:

(c) the suspect's name; and

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(d) the suspect's residential address; and
(e) the suspect's reason for being in the place, or in the vicinity of the place, person or thing, in respect of which the Australian Federal Police is performing protective service functions; and
(f) evidence of the suspect's identity.

(2) If a designated person:
(a) makes a request under subsection (1); and
(b) informs the suspect of the designated person's authority to make the request; and
(c) informs the suspect that it may be an offence not to comply with the request;
the suspect must not:
(d) fail to comply with the request; or
(e) give a name or address that is false in a material particular.

Penalty: 20 penalty units.

Note: A more serious offence of obstructing a Commonwealth public official may also apply (see section 149.1 of the *Criminal Code*).

(3) Subsection (2) does not apply if the suspect 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*).

14J Stopping and searching

When this section applies

(1) This section applies if a designated person suspects on reasonable grounds that:
(a) a person (the ***suspect***):
(i) has a thing under the suspect's immediate control; or
(ii) is occupying a thing; or
(iii) has a thing in a vehicle operated or occupied by the suspect; or

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(iv) has brought a thing onto premises at which the Australian Federal Police is performing protective service functions; and

(b) the thing is likely to cause, or is likely to be used by the suspect or another to cause:

(i) substantial damage to a place or a thing in respect of which the Australian Federal Police is performing protective service functions; or

(ii) death or serious harm to a person in respect of whom the Australian Federal Police is performing protective service functions;

in circumstances that would be likely to involve the commission of a protective service offence.

Designated person may stop and search suspect

(2) The designated person may:

(a) stop and detain the suspect for the purpose of searching for the thing; and

(b) do any or all of the following for the purpose of searching for the thing:

(i) if the designated person is of the same sex as the suspect—conduct an ordinary search or a frisk search of the suspect;

(ii) search any thing under the suspect's immediate control;

(iii) search any vehicle operated or occupied by the suspect.

Conditions relating to conduct of search of suspect

(3) If the designated person is not of the same sex as the suspect, an ordinary search or a frisk search of the suspect for the purpose of searching for the thing may be conducted by:

(a) if another designated person of the same sex as the suspect is reasonably available to conduct the search—that designated person; or

(b) if paragraph (a) does not apply but a police officer or an officer of Customs (within the meaning of subsection 4(1) of

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the *Customs Act 1901*) who is of the same sex as the suspect is reasonably available to conduct the search—that police officer or officer of Customs; or

(c) otherwise—any other person:

(i) who is of the same sex as the suspect; and

(ii) who is requested by the designated person to conduct the search; and

(iii) who consents to conduct the search.

(4) If a designated person requests an officer of Customs or another person to conduct a search of a suspect, the designated person must explain to the officer of Customs or the other person:

(a) if the search requested is an ordinary search—the meaning of an ordinary search; and

(b) if the search requested is a frisk search—the meaning of a frisk search; and

(c) that the officer of Customs or the other person must not use more force, or subject a suspect to greater indignity, than is reasonable and necessary in order to conduct the search.

(5) An action or proceeding, whether civil or criminal, does not lie against a person who conducts a search under paragraph (3)(b) or (c) if the person acts in good faith and does not contravene subsection (6).

(6) A designated person or other person who conducts a search of a suspect under this section must not use more force, or subject a suspect to greater indignity, than is reasonable and necessary in order to conduct the search.

(7) A suspect must not be detained under this section for longer than is reasonably necessary for a search to be conducted under this section.

Designated person may search a thing

(8) If subparagraph (1)(a)(iv) applies, the designated person may, for the purpose of searching for the thing mentioned in that

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subparagraph, search a thing that the designated person suspects on reasonable grounds was brought by the suspect onto premises at which the Australian Federal Police is performing protective service functions.

Other conditions relating to conduct of search of suspect or thing

(9) In searching a thing under subsection (2) or (8), the designated person may use such force as is reasonable and necessary in the circumstances, but must not damage the thing by forcing it, or a part of it, open unless:

(a) if the search is under subsection (2)—the suspect has been given a reasonable opportunity to open the thing or part of it; or

(b) if the search is under subsection (8)—the person (if any) apparently in charge of the thing has been given a reasonable opportunity to open the thing or part of it; or

(c) it is not possible to give that opportunity.

14K Seizure of things found

Designated person may seize a thing being searched for

(1) If, as a result of conducting a search under section 14J, a designated person, or a person who conducted the search under subsection 14J(3) on behalf of a designated person, finds the thing for which the designated person or person was searching, the designated person may seize the thing.

Designated person may seize a dangerous thing

(2) If, as a result of conducting a search under section 14J, a designated person, or a person who conducted the search under subsection 14J(3) on behalf of a designated person, finds a weapon, or other thing, that the designated person suspects on reasonable grounds is likely to be used by the suspect or another to cause death or serious harm to a person:

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(a) in respect of whom the Australian Federal Police is performing protective service functions; or

(b) who is in a place, or in the vicinity of a person, place or thing, in respect of which the Australian Federal Police is performing protective service functions;

the designated person may seize the weapon or thing.

Protective service officer must deliver thing seized to police officer

(3) If the designated person is a protective service officer, the designated person must ensure that the thing is delivered into the custody of a police officer as soon as practicable.

14L How seized things must be dealt with

Seizure notice to be served

(1) A police officer who is for the time being responsible for a thing seized under section 14K must, within 7 days after the seizure day, serve a seizure notice on:

(a) the owner of the thing; or

(b) if the owner of the thing cannot be identified after reasonable inquiries—the person from whom the thing was seized.

(2) Subsection (1) does not apply if:

(a) both:

(i) the owner of the thing cannot be identified after reasonable inquiries; and

(ii) the thing was not seized from a person; or

(b) it is not possible to serve the person required to be served under subsection (1).

(3) A seizure notice must:

(a) identify the thing; and

(b) state the date on which the thing was seized; and

(c) state the ground or grounds on which the thing was seized; and

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(d) state that, if the owner does not request the return of the thing within 90 days after the date of the notice, the thing is forfeited to the Commonwealth.

Return of thing seized

(4) The owner of a thing seized under section 14K may request the return of the thing.

(5) A police officer who is for the time being responsible for a thing seized under section 14K must return the thing to its owner if:

(a) the owner requests the return of the thing; and

(b) in the case of a thing seized under subsection 14K(1)—the police officer does not suspect on reasonable grounds that, if the thing is returned to the owner, the thing is likely to cause, or is likely to be used by the owner or another to cause:

(i) substantial damage to a place or thing in respect of which the Australian Federal Police is performing protective service functions; or

(ii) death or serious harm to a person in respect of whom the Australian Federal Police is performing protective service functions;

in circumstances that would be likely to involve the commission of a protective service offence; and

(c) in the case of a thing seized under subsection 14K(2)—the police officer does not suspect on reasonable grounds that, if the thing is returned to the owner, the thing is likely to be used by the owner or another to cause death or serious harm to a person:

(i) in respect of whom the Australian Federal Police is performing protective service functions; or

(ii) who is in a place, or in the vicinity of a person, place or thing, in respect of which the Australian Federal Police is performing protective service functions.

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Forfeiture of thing seized

(6) A thing is forfeited to the Commonwealth if the owner of the thing does not request its return:

(a) before the end of the 90th day after the date of the seizure notice in relation to the thing; or

(b) if subsection (2) applied in relation to the thing so that a seizure notice was not served—before the end of the 90th day after the seizure day.

Application to magistrate

(7) If:

(a) the owner of a thing requests the return of the thing:

(i) within 90 days after the date of the seizure notice in relation to the thing; or

(ii) if subsection (2) applied in relation to the thing so that a seizure notice was not served—within 90 days after the seizure day; and

(b) the thing has not been returned to the owner by the end of the 90th day;

the police officer who is for the time being responsible for the thing must, before the end of the 95th day:

(c) return the thing to the owner; or

(d) apply to a magistrate for an order under section 14M.

Seizure day

(8) In this section:

seizure day means:

(a) in relation to a thing seized by a designated person who is a protective service officer—the day on which the thing was delivered into the custody of a police officer under subsection 14K(3); or

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(b) in relation to a thing seized by a designated person who is a member or a special member—the day on which the thing was seized.

14M Application to magistrate

(1) If subsection 14L(7) applies, the police officer may apply to a magistrate for an order in relation to the thing to which that subsection applies.

(2) The magistrate must, in determining an application by a police officer under subsection (1), allow the owner of the thing to appear and be heard.

(3) If the magistrate is satisfied that:

(a) in the case of a thing seized under subsection 14K(1)—there are reasonable grounds to suspect that, if the thing is returned to the owner, the thing is likely to cause, or is likely to be used by the owner or another to cause:

(i) substantial damage to a place or thing in respect of which the Australian Federal Police is performing protective service functions; or

(ii) death or serious harm to a person in respect of whom the Australian Federal Police is performing protective service functions;

in circumstances that would be likely to involve the commission of a protective service offence; or

(b) in the case of a thing seized under subsection 14K(2)—there are reasonable grounds to suspect that, if the thing is returned to the owner, the thing is likely to be used by the owner or another to cause death or serious harm to a person:

(i) in respect of whom the Australian Federal Police is performing protective service functions; or

(ii) who is in a place, or in the vicinity of a person, place or thing, in respect of which the Australian Federal Police is performing protective service functions;

the magistrate may make any of the following orders:

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(c) that the thing be retained by the police officer for the period specified in the order;
(d) that the thing is forfeited to the Commonwealth;
(e) that the thing is to be sold and the proceeds given to the owner;
(f) that the thing is to be otherwise sold or disposed of.

(4) If the magistrate is not satisfied as mentioned in subsection (3), the magistrate must order that the thing be returned to the owner.

14N Relationship of Division to other laws

The powers conferred, and duties imposed, by this Division on protective service officers, members and special members are in addition to, and not in derogation of, any other powers conferred, or duties imposed, by any other law of the Commonwealth or the law of a State or Territory, and this Division is not intended to exclude or limit the operation of any other law of the Commonwealth or the law of a State or Territory in so far as it is capable of operating concurrently with this Division.

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Part III—Commissioner, Deputy Commissioners and AFP employees etc.

Division 1—Commissioner and Deputy Commissioners

17 Commissioner and Deputy Commissioners

(1) The Commissioner of Police and one or more Deputy Commissioners of Police shall be appointed by the Governor-General by Commission.

(2) Subject to this Part, the Commissioner holds office for such period, not exceeding 7 years, as is specified in his or her instrument of appointment, but is eligible for re-appointment.

(3) Subject to this Part, a Deputy Commissioner holds office for the period, not exceeding 5 years, specified in the instrument of appointment, but is eligible for re-appointment.

(3A) Where a person is re-appointed under this section for a term beginning immediately after the end of the person's last appointment, the person's service is to be taken to be continuous.

(4) The Commissioner holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

(4A) A Deputy Commissioner holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Commissioner.

18 Acting Commissioner and Deputy Commissioner during vacancy

(1) At any time when the office of Commissioner or an office of Deputy Commissioner is or is expected to be vacant (whether or not the office has previously been filled), the Minister may appoint

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a person to act as Commissioner or as a Deputy Commissioner, as the case may be, until the filling of the vacancy.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

(2) While a person is acting as Commissioner or as a Deputy Commissioner under subsection (1), he or she has, and may exercise, all the powers (except a power to make a declaration under subsection 40D(4)), and shall perform all the functions and duties, of the Commissioner or of the Deputy Commissioner, as the case may be.

19 Absence etc. of Commissioner or Deputy Commissioner

(1) At any time when the Commissioner or a Deputy Commissioner is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the Commissioner or a Deputy Commissioner, as the case may be, the next most senior member who is available has, and may exercise, all the powers (except a power to make a declaration under subsection 40D(4)), and shall perform all the functions and duties, of the Commissioner or the Deputy Commissioner, as the case may be.

(1A) The Minister may determine the remuneration and allowances of a person who exercises the powers, and performs the functions and duties, of the Commissioner under subsection (1).

(1B) The Commissioner may determine the remuneration and allowances of a person who exercises the powers, and performs the functions and duties, of a Deputy Commissioner under subsection (1).

(1C) A person is not entitled to be paid remuneration or allowances under this section for exercising the powers, and performing the functions and duties, of the Commissioner or a Deputy Commissioner for less than one week.

(2) The exercise of the powers and the performance of the functions and duties of the Commissioner or of a Deputy Commissioner by a

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member under this section does not affect the exercise of any power or the performance of any function or duty by the Commissioner or by the Deputy Commissioner, as the case may be.

(3) The validity of anything done by a person purporting to act in accordance with this section shall not be called in question on the ground that the occasion for his or her so acting had not arisen or had ceased.

(4) For the purposes of subsection (1), the order of seniority of members is as determined by the Commissioner.

(5) In this section, except so far as the contrary intention appears, a reference to the Commissioner or to a Deputy Commissioner shall be read as including a reference to an acting Commissioner or acting Deputy Commissioner, as the case may be, appointed under section 18.

20 Remuneration and allowances

(1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration is in operation, he or she shall be paid such remuneration as is prescribed.

(2) The Commissioner shall be paid such allowances as are prescribed.

(2A) A Deputy Commissioner is to be paid such remuneration and allowances as the Commissioner determines in writing.

Note: The Commissioner may, under section 35A, authorise special payments to Deputy Commissioners.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

21 Leave of absence

(1) The Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

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(1A) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

(2) The Commissioner may grant leave of absence to a Deputy Commissioner on such terms and conditions as to remuneration or otherwise as the Commissioner determines.

22 Termination of appointment

(1) The Governor-General may terminate the appointment of the Commissioner or a Deputy Commissioner by reason of misbehaviour or physical or mental incapacity.

(2) If the Commissioner or a Deputy Commissioner:

(a) engages in paid employment outside the duties of his or her office without the approval of the Minister;

(b) is absent from duty, except on leave of absence under section 21, for 14 consecutive days, or for 28 days in any 12 months; or

(c) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

the Governor-General shall terminate his or her appointment.

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Division 2—AFP employees

Subdivision A—Engagement of AFP employees etc.

23 Employer powers etc. of Commissioner

(1) The Commissioner, on behalf of the Commonwealth, has all the rights, duties and powers of an employer in respect of AFP employees.

(2) Without limiting subsection (1), the Commissioner has, in respect of AFP employees, the rights, duties and powers that are prescribed by the regulations.

24 Engagement of AFP employees

(1) The Commissioner, on behalf of the Commonwealth, may, by writing, engage persons as employees.

Engagement may be made subject to conditions

(2) The engagement of an AFP employee may be made subject to conditions notified to the employee, including conditions dealing with any of the following matters:
  (a) probation;
  (b) citizenship;
  (c) formal qualifications;
  (d) security and character clearances;
  (e) health clearances;
  (f) secrecy requirements.

(3) Subsection (2) does not, by implication, limit the conditions that may be applied to the engagement of an AFP employee.

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Non-Australian citizen

(4) The Commissioner must not engage, as an AFP employee, a person who is not an Australian citizen, unless the Commissioner considers it appropriate to do so.

This section has no application to overseas engagement

(5) This section does not apply to the engagement of persons overseas to perform duties overseas as employees.

Note: Section 69A deals with the engagement of such persons.

25 Senior executive AFP employees

The Commissioner may, by writing, declare an AFP employee to be a senior executive AFP employee.

26 Continuous employment

For the purposes of the *Long Service Leave (Commonwealth Employees) Act 1976* and any other law of the Commonwealth, if:

(a) a person is engaged as an AFP employee under section 24 for a period; and

(b) the person completes that period of engagement (the ***initial period***); and

(c) the person is re-engaged under that section for a further period starting immediately after the end of the initial period;

the person's employment is taken to be continuous from the beginning of the initial period until the end of the re-engagement.

Subdivision B—Remuneration and other terms and conditions

27 Remuneration and other conditions

(1) The Commissioner may from time to time determine in writing the remuneration and other terms and conditions of employment applying to an AFP employee, other than:

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(a) terms and conditions of employment that the Commissioner may determine under subsection 40H(2); or

(b) accommodation arrangements that are to apply to an AFP employee, and allowances an AFP employee is to be paid, while the employee is performing duties of the kind covered by paragraph 40H(3)(b).

Note: The Commissioner may, under section 35A, authorise special payments to AFP employees.

Application etc. of industrial instrument

(2) A determination under subsection (1) may apply, adopt or incorporate, with or without modification, any of the provisions of an industrial instrument, as in force at a particular time or as in force from time to time.

Industrial instrument prevails over a determination under subsection (1)

(3) An industrial instrument overrides any determination under subsection (1), to the extent of any inconsistency.

Interpretation

(4) In this section:

industrial instrument means an award, determination or industrial agreement made under the *Fair Work Act 2009* or continued in existence by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (see item 2 of Schedule 3 to that Act).

Note: A determination under section (1) must not provide less than the minimum entitlements of employment under the Australian Fair Pay and Conditions Standard (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*: see item 4 of Schedule 2 to that Act) or under the National Employment Standards (within the meaning of the *Fair Work Act 2009*).

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Subdivision C—Termination of employment

28 Termination of employment by Commissioner

The Commissioner may at any time, by notice in writing, terminate the employment of an AFP employee.

Note: The *Fair Work Act 2009* has rules that apply to termination of employment.

Subdivision D—Resignation and retirement

30 Resignation

(1) An AFP employee may resign from the Australian Federal Police if, and only if:

(a) he or she gives written notice to the Commissioner of his or her resignation and the notice specifies, in accordance with subsection (2), the day his or her resignation is to take effect; or

(b) his or her resignation is in accordance with regulations under paragraph 70(g) (about resigning for the purpose of becoming a candidate at certain elections).

Limitation

(2) The day specified in a notice under paragraph (1)(a) must not:

(a) be earlier than 14 days, or such shorter period as the Commissioner allows; or

(b) be later than 4 months;

after the day on which the notice is given to the Commissioner.

(3) Paragraph (1)(a) is subject to section 30A.

30A Resignation in anticipation of termination of employment

(1) This section applies if:

(a) an AFP employee gives the Commissioner written notice of his or her resignation under paragraph 30(1)(a); and

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(b) the employee's conduct:
  (i) has been, or is being, investigated as an AFP conduct issue that is a category 3 conduct issue; or
  (ii) has raised a corruption issue that has been investigated; or
  (iii) raises a corruption issue that is being investigated; and
(c) at least one of the following applies:
  (i) if the investigation has been completed—the Commissioner is considering terminating the employee's employment under section 28 on the basis of the findings of the investigation;
  (ii) if the investigation has not been completed—the Commissioner is not in a position to decide whether to terminate the employee's employment under section 28 because the findings of the investigation are not yet known;
  (iii) the Commissioner is satisfied that the employee's conduct may amount to serious misconduct within the meaning of subsection 40K(3).

(2) The Commissioner may, by written notice to the AFP employee, substitute a day, no later than 90 days after the day specified in the employee's notice of resignation, as the day on which his or her resignation is to take effect.

(3) The Commissioner may give more than one notice under subsection (2) to the AFP employee in relation to the notice of resignation.

(4) To be effective, the first notice given under subsection (2) in relation to the notice of resignation must be given to the employee before the day specified in the notice of resignation.

(5) To be effective, any subsequent notice given under subsection (2) in relation to the notice of resignation must be given to the employee before the day specified in the immediately preceding notice given under that subsection in relation to the notice of resignation.

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(6) If one or more notices under subsection (2) have been given to the AFP employee in relation to the notice of resignation, the Commissioner may, by written notice to the AFP employee, substitute a day as the day on which his or her resignation is to take effect.

(7) The Commissioner may give a maximum of 2 notices under subsection (6) to the AFP employee in relation to the notice of resignation.

(8) To be effective, the first notice given under subsection (6) in relation to the notice of resignation must:
  (a) specify a day no later than 30 days after the day specified in the most recent notice given under subsection (2) in relation to the notice of resignation; and
  (b) be given to the AFP employee before the day specified in the most recent notice given under subsection (2) in relation to the notice of resignation.

(9) To be effective, any second notice given under subsection (6) in relation to the notice of resignation must:
  (a) specify a day no later than 30 days after the day specified in the first notice given under subsection (6) in relation to the notice of resignation; and
  (b) be given to the AFP employee before the day specified in the first notice given under subsection (6) in relation to the notice of resignation.

Note: The effect of subsections (2) to (9) is that the latest day that may be specified in a notice given under this section is the day 150 days after the day specified in the notice of resignation.

(10) On or before the day specified in the most recent notice given under this section in relation to the notice of resignation, the Commissioner must:
  (a) accept the AFP employee's notice of resignation; or
  (b) terminate the AFP employee's employment under section 28.

(11) If the Commissioner accepts the notice of resignation under paragraph (10)(a), the AFP employee's resignation takes effect on

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the day on which the Commissioner communicates acceptance of the resignation to the employee.

(12) The Commissioner must:

(a) cause a review of the operation of this section to be undertaken as soon as practicable after the fifth anniversary of the commencement of this subsection; and

(b) give the Minister a report of the review.

31 Retirement upon reaching minimum retiring age

(1) An AFP employee who has reached the minimum retiring age is entitled to retire at any time by notice in writing to the Commissioner.

Minimum retiring age

(2) For the purposes of this section, the ***minimum retiring age*** is 55 years, or such higher or lower age as is prescribed by the regulations.

32 Retirement on invalidity grounds

Retirement of AFP employee by Commissioner

(1) If the Commissioner is satisfied that an AFP employee should be retired because of physical or mental incapacity, the Commissioner may retire the employee by notice in writing given to the employee.

AFP employee consents to retirement

(2) Before the Commissioner retires an AFP employee under subsection (1), the employee may, by notice in writing given to the Commissioner, consent to the Commissioner retiring the employee under that subsection.

Note: To find out when an AFP employee's retirement takes effect in such a case, see section 33.

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AFP employee not re-engaged because of invalidity

(3) If:

(a) a person is engaged as an AFP employee under section 24 for a period; and

(b) the person completes that period of engagement (the ***initial period***); and

(c) the person is not re-engaged under that section for a further period starting immediately after the end of the initial period; and

(d) the Commissioner certifies in writing that the person's physical or mental incapacity was the only reason why the person was not so re-engaged;

the person is taken, for the purposes of the *Safety, Rehabilitation and Compensation Act 1988*, the Superannuation Act and the *Superannuation Act 2005*, to have been retired under this section on the day on which the initial period ended.

AFP employee is an eligible employee under the Superannuation Act 1976

(4) In spite of this section, an AFP employee who:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her maximum retiring age (within the meaning of that Act);

is not capable of being retired on the ground of invalidity (within the meaning of Part IVA of that Act) unless CSC has given a certificate under section 54C of that Act.

AFP employee is a member of the superannuation scheme under the Superannuation Act 1990

(5) In spite of this section, an AFP employee who:

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

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(b) is under 60 years of age;

is not capable of being retired on the ground of invalidity (within the meaning of that Act) unless CSC has given a certificate under section 13 of that Act.

AFP employee is an ordinary employer-sponsored member under the Superannuation Act 2005

(6) In spite of this section, an AFP employee who:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

is not capable of being retired on the ground of invalidity (within the meaning of that Act) unless CSC has given an approval and certificate under section 43 of that Act.

33 Time when retirement on invalidity grounds takes effect

AFP employee consents to retirement

(1) If an AFP employee has consented to being retired under subsection 32(1), the employee's retirement takes effect on the day specified in the notice under that subsection. The day specified must not be before the day on which the notice is given to the employee.

AFP employee does not consent to retirement

(2) If an AFP employee who is retired under subsection 32(1) has not consented to being retired under that subsection:

(a) the notice given to the employee under that subsection must inform the employee that the employee is entitled to apply, within the period, and in the manner, prescribed by the regulations, for review of the Commissioner's decision to retire the employee; and

(b) subject to the outcome of any such review, the employee's retirement takes effect on a day specified in the notice.

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(3) The day specified in the notice must not be before the end of the period mentioned in paragraph (2)(a).

Regulations

(4) The regulations may make provision in relation to the review of decisions of the Commissioner to retire AFP employees under subsection 32(1), where the employees have not consented to being retired under that subsection, including:

(a) the period within which, and the manner in which, AFP employees may apply for review of such decisions; and

(b) the powers available to a person or body conducting such a review; and

(c) if the regulations make provision for a person or body conducting such a review to make recommendations to the Commissioner—the Commissioner giving effect to such recommendations by confirming or revoking such decisions.

(5) Despite section 25D of the *Acts Interpretation Act 1901*, if regulations under subsection (4) make provision for a person or body conducting a review of decisions of a kind mentioned in that subsection to:

(a) give written reasons for any decision the person or body makes in relation to such a review; and

(b) give a copy of those reasons to the AFP employee concerned;

the regulations may also make provision in relation to:

(c) the exclusion from that copy of any information of a medical or psychiatric nature that the person or body thinks may be prejudicial to the employee's physical or mental health or well-being; and

(d) the employee nominating a medical practitioner to receive that information.

34 Voluntary retirement for the purposes of the Superannuation Act

Resignation

(1) If:

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(a) an AFP employee resigns from the Australian Federal Police in accordance with section 30; and

(b) the resignation takes effect on or after the day on which he or she reaches 55 but before he or she reaches 60;

he or she is taken, for the purposes of the Superannuation Act, to have retired voluntarily.

Termination of employment

(2) If:

(a) an AFP employee's employment is terminated under section 28; and

(b) the termination takes effect on or after the day on which he or she reaches 55 but before he or she reaches 60;

he or she is taken, for the purposes of the Superannuation Act, to have retired voluntarily.

Period of employment ends

(3) If:

(a) a person is engaged as an AFP employee under section 24 for a period; and

(b) the person completes that period of engagement (the ***initial period***); and

(c) the person is not re-engaged under that section for a further period starting immediately after the end of the initial period; and

(d) the initial period ends on or after the day on which he or she reaches 55 but before he or she reaches 60;

he or she is taken, for the purposes of the Superannuation Act, to have retired voluntarily.

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Division 3—Consultants and independent contractors

35 Commissioner may engage consultants or independent contractors

(1) The Commissioner may, under written agreements, engage persons as consultants, or independent contractors, to perform services.

(2) The Commissioner may determine, in writing, that a consultant, or independent contractor, specified in the determination is to be an AFP appointee for the purposes of paragraph (f) of the definition of ***AFP appointee*** in subsection 4(1).

Note: The Commissioner may, under section 35A, authorise special payments to consultants and independent contractors who are determined to be AFP appointees.

(3) A determination under subsection (2) is not a legislative instrument.

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Division 3A—Payments in special circumstances

35A Payments in special circumstances

(1) The Commissioner may authorise the making of payments to a person (the ***payee***) under subsection (2) if the Commissioner considers it appropriate to do so because of special circumstances that relate to, or arise out of:

(a) the payee's engagement as an AFP appointee; or

(b) another person's engagement as an AFP appointee.

(2) The Commissioner may authorise the making of any of the following payments:

(a) one or more payments of an amount or amounts specified in the authorisation (or worked out in accordance with the authorisation);

(b) periodical payments of an amount specified in the authorisation (or worked out in accordance with the authorisation), during a period specified in the authorisation (or worked out in accordance with the authorisation).

(3) Payments may be authorised under this section even though the payments would not otherwise be authorised by law or required to meet a legal liability.

(4) An authorisation cannot be made under this section if it would involve, or be likely to involve, a total amount of more than $100,000.

(5) Conditions may be attached to payments under this section. If a condition is breached, the payment may be recovered by the Commonwealth as a debt in a court of competent jurisdiction.

Note: Payments under this section must be made from money appropriated by the Parliament. Generally, a payment can be debited against the Australian Federal Police's annual appropriation, providing that it relates to some matter that has arisen in the course of its administration.

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Division 4—Undertakings and oaths or affirmations

36 Undertakings and oaths or affirmations

Commissioner

(1) A person appointed as the Commissioner must, before commencing to perform his or her duties, make and subscribe, before a person authorised by the Minister, such oath or affirmation as is prescribed by the regulations.

Deputy Commissioner

(2) A Deputy Commissioner appointed under section 17 must, immediately after his or her appointment:
  (a) enter into an undertaking, in accordance with the form prescribed by the regulations, relating to the performance of his or her duties; and
  (b) make and subscribe, before the Commissioner, such oath or affirmation as is prescribed by the regulations.

Members

(3) A person declared to be a member under section 40B must, immediately after the declaration:
  (a) enter into an undertaking, in accordance with the form prescribed by the regulations, relating to the performance of his or her duties; and
  (b) make and subscribe, before the Commissioner or a person authorised by the Commissioner, such oath or affirmation as is prescribed by the regulations.

Special members

(4) A person appointed under section 40E to assist in the performance of the functions of the Australian Federal Police must, immediately after his or her appointment:

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(a) enter into an undertaking, in accordance with the form prescribed by the regulations, relating to the performance of his or her duties; and

(b) make and subscribe, before the Commissioner or a person authorised by the Commissioner, such oath or affirmation as is prescribed by the regulations.

Protective service officers

(4A) A person declared to be a protective service officer under section 40EA must, immediately after the declaration:

(a) enter into an undertaking, in accordance with the form prescribed by the regulations, relating to the performance of his or her duties; and

(b) make and subscribe, before the Commissioner or a person authorised by the Commissioner, such oath or affirmation as is prescribed by the regulations.

Special protective service officers

(4B) A person appointed under section 40EC to assist in performing the protective service functions of the Australian Federal Police must, immediately after his or her appointment:

(a) enter into an undertaking, in accordance with the form prescribed by the regulations, relating to the performance of his or her duties; and

(b) make and subscribe, before the Commissioner or a person authorised by the Commissioner, such oath or affirmation as is prescribed by the regulations.

Interpretation

(5) For the purposes of subsections (1) and (2), ***appoint*** does not include re-appoint for a term that begins immediately after the end of the term of the last previous appointment.

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Part IV—Commissioner's command powers etc.

Division 1—Administration and control etc.

37 General administration and control

(1) Subject to this Act, the Commissioner has the general administration of, and the control of the operations of, the Australian Federal Police.

Ministerial directions

(2) The Minister may, after obtaining and considering the advice of the Commissioner and of the Secretary, give written directions to the Commissioner with respect to the general policy to be pursued in relation to the performance of the functions of the Australian Federal Police.

(3) In addition to his or her power to give directions under subsection (2), the Minister may give written directions (either specific or general) to the Commissioner in relation to the use of common services in accordance with an arrangement made under subsection (5).

Commissioner must comply with directions

(4) The Commissioner must comply with all directions given under this section.

Ministerial arrangements

(5) The Minister may, after obtaining and considering the advice of the Commissioner and of the Secretary, make an arrangement with the appropriate Minister of a State for the provision or development of common services and for the use of such common services by the Australian Federal Police and the Police Force of the State.

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Definitions

(7) In this section:

common services includes services consisting of, or provided by means of:

(a) computer systems; or

(b) forensic science laboratories; or

(c) research and planning systems; or

(d) training institutions; or

(e) anything of a like nature.

Secretary means the Secretary of the Department.

38 Commissioner's Orders

In the exercise of his or her powers under section 37, the Commissioner may, by writing, issue orders with respect to the general administration of, and the control of the operations of, the Australian Federal Police.

39 Compliance with Commissioner's Orders

An AFP appointee must comply with Commissioner's Orders.

40 Compliance with specific directions, instructions or orders

An AFP appointee must not:

(a) disobey; or

(b) fail to carry out;

a lawful direction, instruction or order, whether written or oral, given to him or her by:

(c) the Commissioner; or

(d) the AFP appointee under whose control, direction or supervision he or she performs his or her duties.

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40A Self-incrimination

(1) If an AFP appointee is required under section 39 or 40 to give information, answer a question or produce a document, he or she is not excused from giving the information, answering the question or producing the document on the ground that the information, the answer to the question or the production of the document might tend to incriminate him or her or make him or her liable to a penalty.

(2) However, any information or answer so given or any document so produced is not admissible in evidence against the AFP appointee in any proceedings.

(3) Subsection (2) does not apply to any information or answer so given, or any document so produced, that is relevant to conducting a test under section 40M or 40N (about testing for alcohol or prohibited drugs)

Note: Section 40Q deals with the admissibility of such information etc.

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Division 2—Conferral of status of member and conferral of commissions

40B AFP employees who are members of the Australian Federal Police

The Commissioner may, by writing, declare an AFP employee (other than a protective service officer) to be a member of the Australian Federal Police if the Commissioner is satisfied that the employee meets the requirements specified in a determination under section 40C.

Note 1: A person who is currently a protective service officer may be declared to be a member if the person ceases to be a protective service officer.

Note 2: This section does not prevent a protective service officer from being appointed as a special member.

40C Determination of competency or qualification requirements

The Commissioner may, by written determination, specify either or both of the following for the purposes of section 40B:

(a) competency requirements;

(b) qualification requirements.

40D Commissioned police officers

Commission by Governor-General

(1) The Governor-General may, by commission, declare a member to be a commissioned police officer.

(2) Before the Governor-General makes a declaration under subsection (1), the Minister must have received a recommendation from the Commissioner that the member be declared to be a commissioned police officer.

(3) The Commissioner may make such a recommendation only if he or she is satisfied that the member is, in accordance with the

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regulations, competent and qualified to be a commissioned police officer.

Commission by Commissioner or Deputy Commissioner

(4) If the Governor-General, in writing, authorises the Commissioner or a Deputy Commissioner to make declarations of the kind mentioned in subsection (1), the Commissioner or Deputy Commissioner may, by commission, declare a member to be a commissioned police officer.

(5) The Commissioner or Deputy Commissioner may make a declaration under subsection (4) only if he or she is satisfied that the member is, in accordance with the regulations, competent and qualified to be a commissioned police officer.

(6) The giving of an authorisation under subsection (4) does not limit the Governor-General's power under subsection (1).

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Division 3—Special members

40E Special members

(1) The Commissioner may, on such terms and conditions as he or she determines in writing, appoint a person as a special member of the Australian Federal Police to assist in the performance of its functions.

Note: The Commissioner may, under section 35A, authorise special payments to special members.

(2) A person appointed under subsection (1) has, during the continuance of his or her appointment:

(a) any powers and duties that are expressly conferred or imposed on special members under a provision of this Act or of any other Act; and

(b) such of the powers and duties conferred or imposed on members as are specified in his or her instrument of appointment.

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Division 3A—Conferral of status of protective service officer

40EA AFP employees who are protective service officers

The Commissioner may, by writing, declare an AFP employee (other than a member) to be a protective service officer of the Australian Federal Police if the Commissioner is satisfied that the employee meets the requirements specified in a determination under section 40EB.

Note 1: A person who is currently a member may be declared to be a protective service officer if the person ceases to be a member.

Note 2: This section does not prevent a member from being appointed as a special protective service officer.

40EB Determination of competency or qualification requirements

The Commissioner may, by written determination, specify either or both of the following for the purposes of section 40EA:

(a) competency requirements;

(b) qualification requirements.

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Division 3B—Special protective service officers

40EC Special protective service officers

The Commissioner may, on such terms and conditions as the Commissioner determines in writing, appoint a person as a special protective service officer of the Australian Federal Police to assist in performing the protective service functions of the Australian Federal Police.

Note: The Commissioner may, under section 35A, authorise special payments to special protective service officers.

40ED Powers and duties of special protective service officers

A special protective service officer has:

(a) any powers and duties that are expressly conferred or imposed on special protective service officers under a provision of this Act or any other Act; and

(b) such of the powers and duties conferred or imposed on protective service officers as are specified in his or her instrument of appointment.

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Division 4—Secondment

40F Secondment of AFP employees to other police forces etc.

(1) The Commissioner may arrange for an AFP employee to be seconded for a specified period to:

(a) the Police Force of a State or Territory or of a foreign country; or

(b) the Australian Public Service; or

(c) any other body or organisation (including an international body or organisation) whether within or outside Australia.

Note: Under subsection 27(1), the Commissioner may determine the terms and conditions of employment applying to an AFP employee seconded under this section.

Termination of secondment

(2) The Commissioner may at any time terminate a secondment under subsection (1) after consultation with the Police Force, the Australian Public Service Commissioner or the body or organisation, as the case may be.

Minister may give guidelines for secondments outside Australia

(3) The Minister may give the Commissioner written guidelines on the secondment of AFP employees to the Police Force of a foreign country, or to any other body or organisation outside Australia.

(4) The Minister must consult the Commissioner about the guidelines before giving them to the Commissioner.

(5) If the Minister gives guidelines to the Commissioner, the Commissioner must not arrange for an AFP employee to be seconded to the Police Force of a foreign country, or to any other body or organisation outside Australia, except in accordance with the guidelines.

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40G Effect of secondment on status as AFP employee etc.

Secondment has no effect on person's status

(1) The secondment under section 40F of a person who is an AFP employee does not affect:
  (a) the person's status as an AFP employee; and
  (b) if the person is a member—the person's status as a member; and
  (c) the application of any provision of this Act in relation to the person during the period of the secondment.

AFP professional standards obligations etc. continue

(2) During a period of secondment of an AFP employee under section 40F, the employee remains subject to the same obligations and liabilities in relation to AFP professional standards as those to which the employee would, but for the secondment, have been subject as such an employee.

Rights etc. arising from office or position to which person seconded

(3) Nothing in this section affects:
  (a) any rights, powers or immunities that an AFP employee who is seconded under section 40F has by virtue of holding the office or position to which the employee has been seconded; or
  (b) the extent to which the employee is subject to obligations or liabilities in relation to discipline by virtue of holding the office or position to which the employee has been seconded.

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Division 5—Assignment and suspension of duties etc.

40H Assignment of duties etc.

(1) The Commissioner may from time to time determine in writing the duties of an AFP employee, and the place or places at which the duties are to be performed.

Determination of terms and conditions while AFP employee outside Australia

(2) The Commissioner may from time to time determine in writing the terms and conditions applying to an AFP employee while the employee is performing duties outside Australia.

Duties to meet special operational needs

(3) If:

(a) the Commissioner makes a determination under subsection (1); and

(b) the Commissioner specifies in the determination that the duties concerned are to meet the special operational needs of the Australian Federal Police;

the Commissioner may determine in writing the accommodation arrangements that are to apply to the employee, or any allowances the employee is to be paid, while the employee is performing those duties.

(4) Without limiting subsection 33(3) of the *Acts Interpretation Act 1901*, the Commissioner may at any time revoke in writing a determination made under subsection (1).

40J Suspension from duties etc.

(1) The regulations may do any one or more of the following:

(a) provide for the suspension from duties of AFP employees, with or without remuneration;

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(aa) provide that, while suspended from duty, an AFP employee may be required to comply with directions of a kind mentioned in subsection (2);

(ab) provide that, while suspended from duty, an AFP employee may take or be on annual leave if:

(i) the industrial agreement (however described) for the time being in force would otherwise deem or require the AFP member to be on annual leave for the period necessary to reduce the balance of annual leave credits to the level specified in the relevant agreement; or

(ii) in the case of an AFP employee who is suspended without remuneration—the AFP employee applies to take annual leave that he or she would, if approved, otherwise be able to take;

(b) provide that declarations under section 40B (about declaring AFP employees to be members) cease to be in force during a specified period.

Note: A declaration under section 40B could also be revoked etc. under subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) The kind of directions that an AFP employee may be required to comply with while suspended from duty are:

(a) directions that the AFP employee would be required to comply with if the AFP employee were not suspended from duty; and

(b) directions that are given for the purposes of:

(i) determining whether the AFP employee or any other AFP employee has committed a criminal offence or failed to maintain AFP professional standards; or

(ii) assessing the continuing employment suitability of the AFP employee; or

(iii) ensuring continuity, during the period of suspension, in the performance of the AFP employee's duties, being a direction that the employee only is able to comply with.

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(3) To avoid doubt, an AFP employee who takes annual leave while suspended without remuneration is to be paid as if the employee were taking annual leave while not suspended.

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Division 6—Declarations of serious misconduct

40K Termination of employment for serious misconduct

(1) If the Commissioner terminates the employment of an AFP employee under section 28 because the Commissioner believes, on reasonable grounds, that the employee's conduct or behaviour, or any part of it:

(a) amounts to serious misconduct by the employee; and

(b) is having, or is likely to have, a damaging effect on:

(i) the professional self-respect or morale of some or all of the AFP employees; or

(ii) the reputation of the Australian Federal Police with the public, or with any section of the public, or with an Australian or overseas government or law enforcement agency;

the Commissioner may make a written declaration to that effect.

Timing of declaration etc.

(2) Any declaration under subsection (1) must be made within 24 hours of the Commissioner's decision to terminate the employment of the AFP employee. The Commissioner must give a copy of the declaration to the AFP employee.

Definition

(3) In this section:

serious misconduct means:

(a) corruption, a serious abuse of power, or a serious dereliction of duty; or

(b) any other seriously reprehensible act or behaviour by an AFP employee, whether or not acting, or purporting to act, in the course of his or her duties as an AFP employee.

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Division 7—Submission of financial statements

40L Financial statements

(1) The Commissioner may give a person who is an AFP employee or a special member a written direction requiring the person to give the Commissioner a statement in accordance with subsection (2).

Nature etc. of statement

(2) The statement must:
  (a) be made in a form and manner required by the Commissioner; and
  (b) contain any information required by the Commissioner about the financial affairs of the person during a period, or each period, specified by the Commissioner; and
  (c) be accompanied by any documents required by the Commissioner.

Time limit for giving statement

(3) The person must give the statement to the Commissioner within 2 months after the end of the period to which the statement relates.

Extension of time

(4) The Commissioner may grant an extension of time for giving the statement in special circumstances.

Self-incrimination

(5) The person is not excused from giving the statement on the ground that the statement might tend to incriminate him or her or make him or her liable to a penalty.

(6) However, any statement so given is not admissible in evidence against the person in any proceedings.

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Division 8—Drug testing

40LA Authorised managers may require AFP appointees to undergo alcohol screening tests etc.

(1) An AFP appointee authorised under section 40PA to act as a manager (the ***authorised manager***) may require another AFP appointee (the ***screening test subject***) to undergo an alcohol screening test if:

(a) the screening test subject is on duty; and

(b) the authorised manager reasonably suspects that the screening test subject is under the influence of alcohol.

Compliance with direction

(2) The screening test subject must comply with the requirement given to him or her under subsection (1).

Test results

(3) If the result of the alcohol screening test shows that alcohol is not present in the screening test subject's breath, the screening test subject may return to his or her duties immediately.

(4) If:

(a) the result of the alcohol screening test shows that alcohol is present in the screening test subject's breath; or

(b) the screening test subject refuses to undergo the alcohol screening test;

the screening test subject may be given a written direction under section 40M to undergo a breath test.

(5) This section does not limit the operation of section 40M.

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40M Prescribed persons may require AFP appointees to undergo alcohol screening tests, alcohol breath tests or prohibited drug tests etc.

(1) A person authorised to do so under the regulations may give an AFP appointee who is on duty a written direction requiring him or her to do one or more of the following:

(aa) undergo an alcohol screening test;

(a) undergo a breath test;

(b) provide a body sample of a kind specified in the direction for a prohibited drug test;

in accordance with the regulations.

Providing blood sample if breath test indicates the presence of alcohol

(2) If:

(a) an AFP appointee, in accordance with a direction under subsection (1), undergoes a breath test; and

(b) the breath test indicates the presence of alcohol;

he or she may provide a sample of his or her blood for the purpose of a blood test, in accordance with the regulations.

Compliance with direction

(3) An AFP appointee must comply with a direction given to him or her under this section.

40N Alcohol screening tests, alcohol breath tests and prohibited drug tests after certain incidents

Person killed or seriously injured in an incident involving a motor vehicle or vessel or while in police custody

(1) If:

(a) a person is killed or seriously injured as a result of an incident involving a motor vehicle or vessel; or

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(b) an incident occurs in which a person is killed or seriously injured while in police custody;

a person authorised to do so in accordance with the regulations may give any AFP appointee directly involved in the incident while on duty a written direction requiring him or her:

(ba) to undergo an alcohol screening test; or

(c) to undergo a breath test; or

(d) to provide a body sample of a kind specified in the direction for a prohibited drug test;

in accordance with the regulations.

Note: Such a direction may be given whether or not the AFP appointee is still on duty: see subsection (3).

Person killed or seriously injured by a firearm discharging or physical force

(2) If an incident occurs in which a person is killed or seriously injured as a result of:

(a) the discharge of a firearm; or

(b) the application of physical force;

by an AFP appointee while he or she is on duty, a person authorised to do so in accordance with the regulations may give the AFP appointee a written direction requiring him or her:

(ba) to undergo an alcohol screening test; or

(c) to undergo a breath test; or

(d) to provide a body sample of a kind specified in the direction for a prohibited drug test;

in accordance with the regulations.

Note: Such a direction may be given whether or not the AFP appointee is still on duty: see subsection (3).

Direction to be given as soon as practicable after the incident

(3) A direction under subsection (1) or (2) must be given by an authorised person as soon as practicable after the incident concerned and may be given whether or not the AFP appointee is still on duty.

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Provision of blood or body sample while in hospital

(4) If an AFP appointee involved in the incident attends or is admitted to a hospital for examination or treatment because of the incident, a person authorised to do so in accordance with the regulations may give the AFP appointee a written direction requiring him or her:

(a) to provide a sample of his or her blood for a blood test; or

(b) to provide a body sample of a kind specified in the direction for a prohibited drug test;

in accordance with the regulations.

Compliance with direction

(5) An AFP appointee must comply with a direction given to him or her under this section.

40P Regulations

(1) For the purposes of sections 40LA, 40M and 40N, the regulations may make provision, not inconsistent with those sections, in relation to the following:

(a) the authorisation of persons to give directions under those sections;

(b) the authorisation of persons:

(i) to conduct alcohol screening tests, breath tests, blood tests or prohibited drug tests for the purpose of those sections; and

(ii) to operate equipment for that purpose;

(c) the provision of samples of blood for the purpose of blood tests under those sections;

(d) the provision of body samples for the purpose of prohibited drug tests under those sections;

(e) the conduct of alcohol screening tests, breath tests, blood tests or prohibited drug tests under those sections;

(f) the devices used in conducting breath tests, blood tests or prohibited drug tests under those sections, including the calibration, inspection and testing of those devices;

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(g) in the case of blood tests and prohibited drug tests—the accreditation of persons to conduct analyses in connection with such tests;

(h) the procedure for the handling and analysis of:

(i) samples of blood taken in connection with blood tests under those sections; or

(ii) body samples taken in connection with prohibited drug tests under those sections;

(i) the giving of the test results in certificates or other documents and the evidentiary effect of such certificates or other documents;

(j) the confidentiality of the test results.

Note: Paragraph (a)—persons may give directions under sections 40M and 40N. However, for a person's power to give a requirement under section 40LA, see section 40PA.

(2) Despite subsection 14(2) of the *Legislation Act 2003*, regulations made for the purposes of section 40LA, 40M or 40N may make provision in relation to a matter by applying, adopting or incorporating any matter contained in a standard published by, or on behalf of, Standards Australia or published jointly by, or on behalf of, Standards Australia and Standards New Zealand:

(a) as in force or existing at a particular time; or

(b) as in force or existing from time to time.

(3) If the regulations make provision in relation to a matter by applying, adopting or incorporating a matter contained in a standard as referred to in subsection (2), the Commissioner must ensure that the text of the matter applied, adopted or incorporated is readily available, free of charge, to each AFP appointee.

(4) Subsection (3) does not apply if the text cannot be made so available without infringing copyright.

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40PA Managers who may require alcohol screening tests

The Commissioner may issue Commissioner's orders under section 38 authorising particular kinds of AFP appointees to act as managers for the purpose of section 40LA.

40Q Admissibility of test results etc. in legal proceedings

The following:

(a) a certificate or other document recording the results of a test conducted under section 40M or 40N in relation to an AFP appointee;

(b) a certificate or other document recording the results of an alcohol screening test conducted under section 40LA in relation to an AFP appointee;

(c) any other information, answer to a question or document relevant to conducting such a test (including any information or answer given or document produced in compliance with section 40);

is not admissible in evidence against the AFP appointee in any proceedings other than the following:

(d) proceedings in relation to a decision of the Commissioner to terminate the employment or appointment of the AFP appointee;

(e) proceedings under the *Safety, Rehabilitation and Compensation Act 1988*;

(f) proceedings in tort against the Commonwealth that are instituted by the AFP appointee.

40R Approval of screening devices

(1) The Minister may, in writing, approve devices of a type described in the approval to be approved screening devices if he or she is of opinion that:

(a) devices of that type have been designed and made for the purpose of indicating, when a sample of the breath of a

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person is exhaled into the device, whether alcohol is present in the blood of the person; and

(b) devices of that type are suitable devices for use in tests under sections 40LA, 40M and 40N.

(2) An approval under this section is a legislative instrument.

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Part V—Professional standards and AFP conduct and practices issues

Division 1—Preliminary

Subdivision A—Objects and simplified outline of Part

40RA Object of this Part

The object of this Part is to establish the procedures by which:

(a) AFP conduct issues and AFP practices issues; and

(b) other issues related to the Australian Federal Police;

may be raised and dealt with.

40RB Simplified outline of this Part

(1) This Part deals with the handling of:

(a) AFP conduct issues and AFP practices issues; and

(b) other issues related to the Australian Federal Police.

(2) These issues may be:

(a) issues that are raised by information given to the Australian Federal Police (see section 40SA); or

(b) issues that the Commissioner decides, on his or her own initiative, are to be dealt with under this Part (see section 40SD); or

(c) issues that are referred to the Australian Federal Police by the Integrity Commissioner under the *Law Enforcement Integrity Commissioner Act 2006* or by the Ombudsman under the *Ombudsman Act 1976*; or

(d) issues that the Minister directs are to be inquired into under Division 4.

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(3) How a particular AFP conduct issue is dealt with depends on the category to which the issue belongs. Sections 40RK to 40RP deal with the categorisation of AFP conduct issues.

(4) AFP conduct issues that belong to the 2 less serious categories (categories 1 and 2) are dealt with managerially and may be addressed by training and development action (see section 40TC) or remedial action (see section 40TD).

(5) AFP conduct issues that belong to the 2 more serious categories (category 3 and corruption issues) are dealt with through more formal investigations and may be addressed not only by training and development action and remedial action but also by termination action (see section 40TE) and other action. The investigation may also give rise to a prosecution for an offence.

(6) Division 5 confers special investigative powers on people who conduct:
  (a) investigations under Division 3 of category 3 conduct issues or corruption issues; or
  (b) inquiries under Division 4.

(7) The Ombudsman plays a number of roles under this Part. The Ombudsman:
  (a) determines, jointly with the Commissioner, the particular kinds of conduct that are to belong to the various categories of conduct (see section 40RM); and
  (b) is consulted by the Commissioner on the appointment of investigators under section 40TO (see subsection 40TO(6)); and
  (c) is entitled under section 40WA to have access to the records that are kept in relation to AFP conduct issues and AFP practices issues under that section; and
  (d) conducts annual reviews and ad hoc reviews of the operation of this Part under Division 7.

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Subdivision B—Professional standards for AFP appointees

40RC Commissioner may determine professional standards

(1) The Commissioner may issue Commissioner's orders under section 38 determining the professional standards to be complied with by AFP appointees.

(2) Without limiting subsection (1), the Commissioner may determine a professional standard by reference to the requirements specified in:

(a) another Commissioner's order; or

(b) another document issued or made by the Commissioner in the exercise of the Commissioner's powers under section 37.

(3) Despite section 46AA of the *Acts Interpretation Act 1901*, a document referred to in paragraph (2)(a) or (b) may be a document:

(a) as in force at a particular time; or

(b) as in force from time to time.

Subdivision C—Unit within Australian Federal Police to undertake professional standards functions

40RD Unit to be constituted

(1) The Commissioner must constitute, within the Australian Federal Police, a unit to undertake investigations of:

(a) AFP conduct issues that are category 3 conduct issues; and

(b) corruption issues that relate to conduct engaged in by AFP appointees.

(2) The Commissioner may determine, from time to time, the name by which the unit is to be known.

(3) The establishment of the unit is to be such as the Commissioner determines from time to time.

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(4) In determining and varying the establishment of the unit, the Commissioner must ensure, so far as it is practicable for the Commissioner to do so, that the staffing of the unit is adequate to enable the unit to perform its functions under this Part effectively.

40RE Head of unit

(1) The Commissioner may appoint an AFP appointee, in writing, to be the head of the unit constituted under section 40RD.

(2) The head of the unit is responsible for the performance by the unit of its functions.

(3) The head of the unit is responsible under subsection (2) directly to:
  (a) the Commissioner; or
  (b) if the Commissioner so directs—the Deputy Commissioner, or senior executive AFP employee who is at a level equivalent to that of a Deputy Commissioner, specified in the direction.

40RF Assignment of members, and special members, to unit

(1) The Commissioner may, in writing, assign a member, or special member, of the Australian Federal Police to the unit constituted under section 40RD.

(2) The assignment must:
  (a) be in writing; and
  (b) specify the period during which the member, or special member, is to serve in the unit.

(3) The period specified under paragraph (2)(b) must not exceed 2 years.

(4) If the Commissioner is satisfied that there are special reasons for doing so, the Commissioner may vary, or further vary, the assignment under subsection (1) by substituting for the period specified in the assignment a shorter or longer period.

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(5) The period substituted under subsection (4) may exceed 2 years.

(6) As soon as practicable after the member, or special member, has served in the unit for the period specified in the assignment, the Commissioner must arrange for the member, or special member, to cease serving in the unit.

(7) If:

(a) a member, or special member, of the Australian Federal Police is assigned to the unit constituted under section 40RD; and

(b) the member, or special member, ceases to serve in the unit; and

(c) the period of 12 months from the time when the member, or special member, ceased to serve in the unit ends;

the member, or special member, may again be assigned to the unit.

40RG Member or special member in unit may be directed to perform other duties

The Commissioner may direct a member, or special member, of the Australian Federal Police serving in the unit constituted under section 40RD to perform duties that are not related to the unit's functions but only if those duties do not unduly interfere with the performance by the unit of its functions.

Subdivision D—AFP conduct issues and AFP practices issues

40RH AFP conduct issues

(1) For the purposes of this Act, an ***AFP conduct issue*** is an issue of whether an AFP appointee has:

(a) engaged in conduct that contravenes the AFP professional standards; or

(b) engaged in corrupt conduct.

(2) Subsection (1) applies even if:

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(a) the AFP appointee who engaged in the conduct has ceased to be an AFP appointee; or

(b) the conduct:

(i) was engaged in while the AFP appointee was not on duty; or

(ii) is conduct of a private character; or

(iii) was engaged in before the AFP appointee became an AFP appointee; or

(c) the conduct that was engaged in by the AFP appointee also involves or implicates someone who is not an AFP appointee; or

(d) the period for bringing a prosecution for an offence, or other proceedings, in relation to the conduct has ended; or

(e) the conduct was engaged in before the commencement of this section.

(3) Subsection (1) applies whether the conduct was engaged in within, or outside, Australia.

(4) To avoid doubt, information may raise an ***AFP conduct issue*** even if the identity of the AFP appointee who engaged in the conduct is unknown, is uncertain or is not disclosed in the information.

(5) This section has effect subject to section 40RJ.

(6) A reference in this section to ***engaging in conduct*** includes a reference to failing, or refusing, to engage in conduct.

40RI AFP practices issues

(1) For the purposes of this Act, an ***AFP practices issue*** is an issue about the practices or procedures of the Australian Federal Police (whether those practices or procedures are carried out within, or outside, Australia).

(2) Without limiting subsection (1), an ***AFP practices issue*** includes an issue of whether a practice or procedure of the Australian Federal Police is or has been:

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(a) contrary to law; or
(b) unreasonable, unjust, oppressive or improperly discriminatory; or
(c) inadequate; or
(d) otherwise wrong or inappropriate.

(3) For the purposes of this Act, the ***practices or procedures*** of the Australian Federal Police include:
(a) the rules, orders and instructions (including the Commissioner's Orders) in accordance with which AFP appointees are required to perform their duties; and
(b) the policies adopted or followed by the Australian Federal Police; and
(c) the practices and procedures ordinarily followed by AFP appointees in the performance of their duties.

(4) This section has effect subject to section 40RJ.

40RJ Exclusion of certain employment action

(1) For the purposes of this Act, an ***AFP conduct issue*** does not include an issue that relates to conduct of a person that is conduct that:
(a) consists of action taken in relation to an AFP appointee's employment; and
(b) involves neither:
(i) a contravention by the person of the AFP professional standards; nor
(ii) corrupt conduct by the person.

(2) For the purposes of this Act, an ***AFP practices issue*** does not include an issue that relates a practice or procedure of the Australian Federal Police that is a practice or procedure that:
(a) relates to action taken in relation to AFP appointees' employment; and
(b) involves neither:
(i) contraventions the AFP professional standards; nor

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(ii) corrupt conduct by AFP appointees.

(3) Without limiting subsections (1) and (2), action taken in relation to an AFP appointee's employment includes action taken in relation to:

(a) the appointment of the AFP appointee; or

(b) the terms and conditions of employment of the AFP appointee; or

(c) the promotion of the AFP appointee; or

(d) the termination of the AFP appointee's appointment; or

(e) the management of performance that does not meet AFP professional standards; or

(f) the payment of remuneration to the AFP appointee.

Subdivision E—Categories of AFP conduct issues and managers

40RK Categories of conduct

(1) There are 4 categories of conduct for the purposes of this Act.

(2) The lowest, and least serious, is category 1.

(3) The next highest, and next most serious, is category 2.

(4) The next highest, and next most serious, is category 3.

(5) The highest, and most serious, is conduct giving rise to a corruption issue.

(6) If conduct would otherwise belong to more than one category, it is taken to belong to the higher or highest of those categories.

(7) The category to which conduct belongs may change as more information is obtained in relation to the conduct.

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40RL Categories of AFP conduct issues

(1) A ***category 1 conduct issue*** is an issue of whether an AFP appointee has engaged in category 1 conduct.

(2) A ***category 2 conduct issue*** is an issue of whether an AFP appointee has engaged in category 2 conduct.

(3) A ***category 3 conduct issue*** is an issue of whether an AFP appointee has engaged in category 3 conduct.

40RM AFP Commissioner and Ombudsman to determine the kinds of conduct that are to be category 1, category 2 or category 3 conduct

(1) Subject to sections 40RN, 40RO and 40RP, the Commissioner and the Ombudsman may jointly determine, by legislative instrument:
  (a) the kind of conduct that is to be category 1 conduct for the purposes of this Act; and
  (b) the kind of conduct that is to be category 2 conduct for the purposes of this Act; and
  (c) the kind of conduct that is to be category 3 conduct for the purposes of this Act.

(2) If there is no determination under subsection (1) that applies to particular conduct, the conduct is to be taken to be category 3 conduct for the purposes of this Act.

40RN Category 1 conduct

The Commissioner and the Ombudsman may determine under subsection 40RM(1) that conduct of a particular kind is to be category 1 conduct for the purposes of this Act only if they are satisfied that:

(a) conduct of that kind is inappropriate conduct that:
  (i) relates to minor management matters or customer service matters; or

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(ii) reveals a need for improvement in the performance of the AFP appointee concerned; and

(b) conduct of that kind does not warrant being treated as category 2 or category 3 conduct for the purposes of this Act.

40RO Category 2 conduct

(1) The Commissioner and the Ombudsman may determine under subsection 40RM(1) that conduct of a particular kind is to be category 2 conduct for the purposes of this Act only if they are satisfied that:

(a) conduct of that kind is:

(i) minor misconduct by an AFP appointee; or

(ii) inappropriate conduct that reveals unsatisfactory behaviour by an AFP appointee; or

(b) conduct of that kind:

(i) would otherwise be category 1 conduct; and

(ii) warrants, because of its repeated nature, being treated as category 2 conduct for the purposes of this Act.

(2) The Commissioner and the Ombudsman must also be satisfied that the conduct does not warrant being treated as category 3 conduct for the purposes of this Act.

40RP Category 3 conduct

(1) The Commissioner and the Ombudsman may determine under subsection 40RM(1) that conduct of a particular kind is to be category 3 conduct for the purposes of this Act only if they are satisfied that:

(a) conduct of that kind:

(i) is serious misconduct by an AFP appointee; or

(ii) raises the question whether termination action should be taken in relation to an AFP appointee; or

(iii) involves a breach of the criminal law, or serious neglect of duty, by an AFP appointee; and

(b) conduct of that kind does not raise a corruption issue.

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(2) Subparagraphs (1)(a)(ii) and (iii) do not limit subparagraph (1)(a)(i).

40RQ Managers for particular categories of AFP conduct issues

The Commissioner may issue Commissioner's orders under section 38:

(a) authorising particular kinds of AFP appointees to act as managers for category 1 conduct issues; or

(b) authorising particular kinds of AFP appointees to act as managers for category 2 conduct issues.

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Division 2—Raising AFP conduct and practices issues with the AFP for action under Division 3

40SA Giving information that raises an AFP conduct or practices issue

(1) A person may give information that raises an AFP conduct or practices issue to:
  (a) the Commissioner; or
  (b) an AFP appointee.

(2) The person:
  (a) may give the information orally or in writing; and
  (b) may give the information anonymously.

(3) For the purposes of this Act, the person is a ***complainant*** in relation to the AFP conduct or practices issue, if:
  (a) the person expressly indicates; or
  (b) the manner in which the person gives the information necessarily implies;

that he or she wishes to be kept informed of the action taken in relation to the issue.

(4) If the person gives the information orally, the Commissioner, the AFP appointee to whom the information is given or the AFP appointee or other person to whom the issue is allocated:
  (a) may reduce the information to writing; and
  (b) may, at any time, require the person giving the information to reduce the information to writing; and
  (c) may, if he or she makes a requirement under paragraph (b), decline to take any further action in relation to the information until the person giving the information reduces the information to writing.

(5) If the Ombudsman decides to refer information under subsection 6(21) of the *Ombudsman Act 1976*, the person who

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gave the information to the Ombudsman is taken to have given the Commissioner information that raises an AFP conduct or practices issue under this section.

(6) A person's right to give information under this section:
  (a) is in addition to the provisions of any other law; and
  (b) does not affect the operation of any other law; and
  (c) without limiting the generality of paragraphs (a) and (b), does not:
    (i) prevent or affect the taking of legal proceedings under some other law in respect of conduct engaged in by an AFP appointee; or
    (ii) affect the operation of any other law in respect of legal proceedings so taken.

40SB Arrangements for person in custody to give information

(1) This section applies if a person (the ***detainee***) is being detained in custody.

(2) For the purposes of this section, a ***custodian*** is:
  (a) the person in whose custody the detainee is being detained; or
  (b) another person performing duties in connection with the detainee's detention.

(3) The detainee may request a custodian to provide the detainee with:
  (a) facilities for preparing written information to give the Commissioner under section 40SA; and
  (b) facilities for giving further information to:
    (i) the Commissioner; or
    (ii) the person to whom the relevant AFP conduct or practices issue is allocated; and
  (c) facilities for enclosing the complaint or the further information in a sealed envelope.

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(4) If the detainee requests facilities under subsection (3), the detainee is entitled to be provided with those facilities.

(5) The detainee may request a custodian to have sent to the Commissioner (or the person to whom the relevant AFP conduct or practices issue is allocated) a sealed envelope that is:
  (a) delivered by the detainee to the custodian; and
  (b) addressed to the Commissioner (or the person to whom the issue is allocated).

(6) If the detainee makes a request under subsection (5), the detainee is entitled to have the envelope delivered to the Commissioner (or the person to whom the relevant AFP conduct or practices issue is allocated) without undue delay.

(7) The detainee is entitled to have delivered to the detainee, without undue delay, any sealed envelope that:
  (a) is addressed to the detainee and sent by the Commissioner (or the person to whom the relevant AFP conduct or practices issue is allocated); and
  (b) comes into the possession, or under the control, of a custodian.

(8) A custodian is not entitled to open, or inspect any document enclosed in, a sealed envelope that:
  (a) either:
    (i) is addressed to the Commissioner (or the person to whom the relevant AFP conduct or practices issue is allocated) and delivered by the detainee to a custodian for sending to the Commissioner; or
    (ii) is addressed to the detainee and sent by the Commissioner (or the person to whom the relevant AFP conduct or practices issue is allocated); and
  (b) comes into the possession, or under the control, of a custodian.

(9) For the purposes of this section, the Commissioner may make arrangements with the appropriate authority of a State or a

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Territory for the identification and delivery of sealed envelopes sent by the Commissioner (or the person to whom the relevant AFP conduct or practices issue is allocated) to persons detained in custody in that State or Territory.

40SC Recording and dealing with information given under section 40SA

(1) If a person gives information to another person (the ***recipient***) under section 40SA, the recipient must:
  (a) record the details of the information; and
  (b) deal with the information in accordance with the Commissioner's orders issued for the purposes of subsection 40TA(1).

(2) Subsection (1) does not apply if:
  (a) the issue to which the information relates is:
    (i) a category 1 conduct issue; or
    (ii) an AFP practices issue; and
  (b) the recipient is satisfied that the issue:
    (i) arises as a result of a misunderstanding of the facts, the law or the practices or procedures of the Australian Federal Police; or
    (ii) is otherwise appropriate for informal resolution; and
  (c) the recipient is satisfied that:
    (i) giving an explanation to the person giving the information; or
    (ii) taking other action;
    is likely to resolve the issue; and
  (d) the recipient is satisfied that the recipient is able to give the person giving the information that explanation, or arrange for that action to be taken, within a reasonable period.

(3) If the issue is not resolved within a reasonable period, the recipient must:
  (a) record the details of the information; and

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(b) deal with the information in accordance with the Commissioner's orders issued for the purposes of subsection 40TA(1).

40SD Commissioner may decide that AFP conduct issue should be dealt with under this Part

The Commissioner may decide, on his or her own initiative, that an AFP conduct issue is to be dealt with under this Part.

40SE Recording and dealing with information referred under section 40SD

If the Commissioner decides under section 40SD that an AFP conduct issue is to be dealt with under this Part, the Commissioner must:

(a) record the details of the information; and

(b) deal with the issue in accordance with the Commissioner's orders issued for the purposes of subsection 40TA(1).

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Division 3—Dealing with AFP conduct or practices issues

Subdivision A—Preliminary

40TA Commissioner's orders about how AFP conduct or practices issues are dealt with

(1) The Commissioner may issue Commissioner's orders under section 38 in relation to how:

(a) AFP conduct or practices issues; and

(b) information about AFP conduct or practices issues;

are to be dealt with by AFP appointees under this Part.

(2) Without limiting subsection (1), the Commissioner must, so far as practicable, ensure that the complainant (if any) in relation to an AFP conduct issue:

(a) is kept informed, as frequently as is reasonable, and to the extent that is reasonable, in the circumstances, of progress in dealing with:

(i) the AFP conduct issue; and

(ii) any AFP practices issue that the person to whom the issue is allocated identifies in the course of dealing with the AFP conduct issue; and

(b) is advised of any action taken in relation to an issue referred to in paragraph (a).

(3) Without limiting subsection (1), the Commissioner must, so far as practicable, ensure that the complainant (if any) in relation to an AFP practices issue:

(a) is kept informed, as frequently as is reasonable, and to the extent that is reasonable, in the circumstances, of progress in dealing with the AFP practices issue; and

(b) is advised of any action taken in relation to the AFP practices issue.

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40TB Dealing with related AFP conduct issues that have different categories

If:

(a) a number of AFP conduct issues relate to the same AFP appointee; and

(b) those AFP conduct issues belong to different categories;

those AFP conduct issues may be dealt with together as if they all belonged to the higher or highest of those categories.

40TC Training and development action

(1) For the purposes of this Act, ***training and development action*** in relation to an AFP appointee is action taken to improve the appointee's performance through training and development.

(2) Without limiting subsection (1), ***training and development action*** in relation to the AFP appointee may take one or more of the following forms:

(a) coaching the AFP appointee or making arrangements for the AFP appointee to be coached;

(b) mentoring the AFP appointee or making arrangements for the AFP appointee to be mentored;

(c) making arrangements for the AFP appointee to undertake training activities;

(d) making arrangements for the AFP appointee to undertake development activities;

(e) increasing, or making arrangements for increasing, the level of supervision of the AFP appointee's work.

40TD Remedial action

(1) For the purposes of this Act, ***remedial action*** in relation to an AFP appointee is action taken to remedy unsatisfactory performance by the AFP appointee.

(2) Without limiting subsection (1), ***remedial action*** in relation to the AFP appointee may include one or more of the following:

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(a) action taken to improve the AFP appointee's behaviour;
(b) structured changes to the AFP appointee's employment;
(c) the recording of adverse findings against the AFP appointee (whether for a particular period or permanently).

(3) Without limiting paragraph (2)(a), ***remedial action*** in relation to the AFP appointee may take one or more of the following forms:
(a) counselling the AFP appointee or arranging for the AFP appointee to be counselled;
(b) reprimanding the AFP appointee;
(c) giving the AFP appointee a formal warning;
(d) requiring the AFP appointee to adopt particular improvement strategies.

(4) Without limiting paragraph (2)(b), ***remedial action*** in relation to the AFP appointee may take one or more of the following forms:
(a) changing the AFP appointee's shifts or arranging for or recommending such a change;
(b) restricting the AFP appointee's duties or arranging for or recommending such a restriction;
(c) reassigning the AFP appointee to other duties or arranging for or recommending such a reassignment;
(d) transferring the AFP appointee to another part of the Australian Federal Police or arranging for or recommending such a transfer.

40TE Termination action

The following table sets out the action that is ***termination action*** in relation to each kind of AFP appointee for the purposes of this Act:

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Termination action		
Item	**For this kind of AFP appointee ...**	***termination action* is ...**
1	a Deputy Commissioner	the Governor-General terminating the Deputy Commissioner's appointment
2	an AFP employee	the Commissioner terminating the AFP employee's employment under section 28
3	a special member	the Commissioner terminating the special member's appointment as a special member of the Australian Federal Police
4	a special protective service officer	the Commissioner terminating the special protective service officer's appointment as a special protective service officer of the Australian Federal Police
5	a person engaged overseas under section 69A to perform duties overseas as an employee of the Australian Federal Police	the Commissioner terminating the person's engagement
6	a person (the ***consultant/contractor***) who is engaged under section 35 as a consultant, or independent contractor, to perform services for the Australian Federal Police	the Commissioner: (a) terminating the consultant/contractor's engagement; or (b) arranging for a person to cease to perform services for the Australian Federal Police on behalf of the consultant/contractor

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Termination action		
Item	**For this kind of AFP appointee ...**	***termination action* is ...**
7	a person assisting the Australian Federal Police in the performance of its functions under an agreement under section 69D	the Commissioner arranging for the person to cease to assist the Australian Federal Police in the performance of its functions

Subdivision B—Discretion to take no further action in relation to issue

40TF Discretion to take no further action in relation to AFP conduct or practices issue

(1) This section applies if:

(a) a person gives information under section 40SA that raises:

(i) an AFP conduct issue in relation to conduct engaged in by an AFP appointee; or

(ii) an AFP practices issue in relation to a practice or procedure of the AFP; or

(b) the Commissioner decides under section 40SD that an AFP conduct issue in relation to an AFP appointee is to be dealt with under this Part.

(2) The Commissioner may determine that no further action is to be taken under this Part in relation to the issue if the Commissioner is satisfied that:

(a) the person became aware of the conduct, or the practice or procedure, more than 12 months before the person gave the information under section 40SA; or

(b) appropriate action has already been taken:

(i) against the AFP appointee in relation to the conduct; or

(ii) in relation to the practice or procedure; or

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(c) the person giving the information has exercised a right to have the conduct, or the practice or procedure, reviewed by a court or tribunal constituted by or under a law and there is no special reason to take further action in relation to the conduct or the practice or procedure; or

(d) the person giving the information has a right to have the conduct, or the practice or procedure, reviewed by a court or tribunal constituted by or under a law but has not exercised that right and, having regard to all the circumstances, it would be reasonable for the person to have exercised that right; or

(e) the giving of the information is frivolous or vexatious; or

(f) the information is trivial; or

(g) the person giving the information did not give the information in good faith; or

(h) the person giving the information does not have a sufficient interest in the AFP conduct issue or the AFP practices issue; or

(i) the conduct:

(i) occurred when the AFP appointee was not on duty; or

(ii) was private conduct of the AFP appointee;

and was lawful and reasonable in the circumstances; or

(j) the person giving the information is an AFP appointee, or has been an AFP appointee, and the information relates to action taken in relation to that AFP appointee as a result of information that was given and dealt with under this Part; or

(k) the investigation, or further investigation, of the issue is not warranted having regard to all the circumstances; or

(l) any other condition specified in the regulations for the purposes of this paragraph is satisfied.

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Subdivision C—Dealing with category 1 and category 2 conduct issues

40TG When Subdivision applies

(1) This Subdivision applies if:
  (a) information that is given under section 40SA raises an AFP conduct issue in relation to an AFP appointee; and
  (b) the issue is a category 1 or category 2 conduct issue; and
  (c) the issue is allocated to an AFP appointee (the ***manager***).

(2) This Subdivision also applies if:
  (a) the Commissioner decides under section 40SD that an AFP conduct issue in relation to an AFP appointee is to be dealt with under this Part; and
  (b) the issue is a category 1 or category 2 conduct issue; and
  (c) the issue is allocated to an AFP appointee (the ***manager***).

40TH How issue is dealt with

(1) In dealing with the AFP conduct issue, the manager must:
  (a) ensure that:
    (i) the AFP appointee; and
    (ii) the complainant (if any);
  have an adequate opportunity to be heard in relation to the issue; and
  (b) ensure that the AFP appointee is involved, as far as practicable, in the resolution of the issue; and
  (c) determine what action (if any) is to be taken under section 40TI or 40TJ in relation to the issue; and
  (d) consider whether the information:
    (i) given under section 40SA in relation to the issue; or
    (ii) obtained in the course of dealing with the issue;
  raises an AFP practices issue.

Note: Paragraph (d)—see also section 40TK.

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(2) Without limiting the ways in which the manager may deal with the AFP conduct issue, the manager may:
  (a) attempt to resolve the issue by conciliation; or
  (b) authorise another AFP appointee to attempt to resolve the issue by conciliation.

(3) To avoid doubt:
  (a) the conduct or outcome of conciliation undertaken under subsection (2) does not limit the action that the manager may take under section 40TI or 40TJ; and
  (b) the manager may take into account the conduct or outcome of conciliation undertaken under subsection (2) in deciding what action (if any) to take under section 40TI or 40TJ.

(4) Any information that the AFP appointee gives, in the course of conciliation undertaken under subsection (2), to:
  (a) the manager; or
  (b) the person authorised by the manager to attempt to resolve the AFP conduct issue by conciliation; or
  (c) the complainant;

is not admissible against the AFP appointee in any criminal or civil proceedings.

40TI Action that may be taken in relation to category 1 conduct

If the manager is satisfied, on reasonable grounds, that the AFP appointee has engaged in category 1 conduct, the manager may take training and development action in relation to the AFP appointee.

Note: For ***training and development action***, see section 40TC.

40TJ Action that may be taken in relation to category 2 conduct

If the manager is satisfied, on reasonable grounds, that the AFP appointee has engaged in category 2 conduct, the manager may do either or both of the following:

(a) take remedial action in relation to the AFP appointee;

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(b) take training and development action in relation to the AFP appointee.

Note 1: For ***remedial action***, see section 40TD.

Note 2: For ***training and development action***, see section 40TC.

40TK AFP practices issue identified in course of dealing with AFP conduct issue

(1) This section applies if the manager is satisfied that the information:

(a) given under section 40SA in relation to the AFP conduct issue; or

(b) obtained in the course of dealing with the AFP conduct issue;

raises an AFP practices issue.

(2) The manager must bring the AFP practices issue to the attention of an appropriate AFP appointee.

(3) The manager may make such recommendations as the manager considers appropriate to address the AFP practices issue.

Subdivision D—Dealing with category 3 conduct issues and corruption issues

40TL When Subdivision applies

(1) This Subdivision applies if:

(a) information that is given under section 40SA raises an AFP conduct issue in relation to an AFP appointee; and

(b) the issue is a category 3 conduct issue.

(2) This Subdivision also applies if:

(a) the Commissioner decides under section 40SD that an AFP conduct issue in relation to an AFP appointee is to be dealt with under this Part; and

(b) the issue is a category 3 conduct issue.

(3) This Subdivision also applies if:

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(a) the Commissioner notifies the Integrity Commissioner of a corruption issue under section 19 of the *Law Enforcement Integrity Commissioner Act 2006* and the Australian Federal Police investigates the issue under subsection 22(1) of that Act; or

(b) a corruption issue relates to the conduct of an AFP appointee and the Integrity Commissioner refers the issue to the Australian Federal Police under Division 2 of Part 4 of that Act.

(4) This Subdivision also applies if the Ombudsman arranges with the Commissioner under section 8D of the *Ombudsman Act 1976* for a category 3 conduct issue to be dealt with jointly by the Ombudsman and the Australian Federal Police.

40TM Head of unit constituted under section 40RD to notify Ombudsman of category 3 conduct issues

(1) The head of the unit constituted under section 40RD must notify the Ombudsman of the issue if the issue is a category 3 conduct issue.

(2) Subsection (1) does not apply if this Subdivision applies to the issue because of subsection 40TL(4) (Ombudsman arranging for issue to be dealt with jointly by Ombudsman and Australian Federal Police).

40TN Head of unit constituted under section 40RD generally allocates issues for investigation

(1) Subject to subsection (3) and section 40TO, the head of the unit constituted under section 40RD must allocate the issue to one or more law enforcement officers (within the meaning of the *Crimes Act 1914*) for investigation.

(2) Without limiting subsection (1), the head of the unit may allocate the issue to himself or herself.

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(3) The head of the unit may allocate the issue to a person who is not a member of the unit only with the Commissioner's agreement.

40TO Commissioner must allocate issue to someone outside unit constituted under section 40RD in certain circumstances

(1) This section applies if:
  (a) the issue relates to the conduct of a person who is a member of the unit constituted under section 40RD; or
  (b) the issue does not relate to the conduct of a person who is a member of the unit but the Commissioner is satisfied that it would be inappropriate, for any reason, for the issue to be allocated to a person who is a member of that unit for investigation.

(2) The Commissioner must allocate the issue to a person for investigation.

(3) The person to whom the issue is allocated must not be a member of the unit constituted under section 40RD.

(4) A corruption issue must not be allocated to the Ombudsman.

(5) Without limiting subsection (2), the Commissioner may, with the agreement of the Ombudsman, allocate the issue to the Ombudsman if the issue is a category 3 conduct issue.

(6) If:
  (a) the issue is a category 3 conduct issue; and
  (b) the Commissioner allocates the issue under subsection (2) to someone other than the Ombudsman;

the Commissioner must consult with the Ombudsman about the choice of the person to whom the issue is to be allocated.

(7) If the issue is a corruption issue, the Commissioner must consult with the Integrity Commissioner about the choice of the person to whom the issue is to be allocated.

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40TP Persons eligible to have category 3 conduct issue or corruption issue allocated to them

The issue may be allocated to a person under section 40TN or 40TO only if the person has appropriate qualifications or experience to conduct the investigation of the issue.

40TQ How category 3 conduct issue or corruption issue is dealt with

(1) This section applies if the issue is allocated to a person under section 40TN or 40TO.

(2) In investigating the issue, the investigator must:

(a) ensure that:

(i) the AFP appointee; and

(ii) the complainant (if any);

have, subject to the requirements of the investigation, an adequate opportunity to be heard in relation to the issue; and

(b) consider whether the information:

(i) given under section 40SA in relation to the issue; or

(ii) obtained in the course of dealing with the issue;

raises an AFP practices issue.

40TR Recommendations that may be made in relation to category 3 conduct or corrupt conduct

(1) If the investigator is satisfied, on reasonable grounds, that the AFP appointee has engaged in category 3 conduct or corrupt conduct, the investigator may recommend that any one or more of the following be taken in relation to the AFP appointee:

(a) termination action;

(b) remedial action;

(c) training and development action;

(d) any other action that the Commissioner can take in relation to the AFP appointee.

Note 1: For ***termination action***, see section 40TE.

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Note 2: For ***remedial action***, see section 40TD.

Note 3: For ***training and development action***, see section 40TC.

Note 4: If evidence emerges, at any stage of the investigation, that the AFP appointee may have committed an offence, the investigator could also arrange for the AFP appointee to be charged with the offence. This might be done even before the investigation of the issue is completed. The AFP appointee might be charged with the offence even if the investigator does not recommend that termination, remedial or training and development action to be taken in relation to the AFP appointee.

(2) To avoid doubt, the Commissioner may take termination action in relation to an AFP employee whether or not a recommendation has been made by an investigator that termination action be taken in relation to the employee.

40TS Investigative powers

(1) If the investigator is not the Ombudsman, the investigator has, in relation to the investigation of the issue, the powers provided for in Division 5.

(2) To avoid doubt, subsection (1) applies even if the investigator is investigating the issue jointly with the Ombudsman.

(3) If the investigator is the Ombudsman, the Ombudsman has, in relation to the investigation of the issue, the same powers that the Ombudsman has under the *Ombudsman Act 1976* in relation to the investigation of a complaint made under that Act.

40TU Report of investigation

(1) On completion of the investigation of the issue, the investigator must:

(a) prepare a written report of the results of the investigation; and

(b) give the report to:

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(i) the head of the unit constituted under section 40RD if the issue was allocated to the investigator under section 40TN; or

(ii) the Commissioner if the issue was allocated to the investigator under section 40TO.

(2) Subsection (1) does not apply if:

(a) the issue is investigated jointly with the Ombudsman; and

(b) the arrangement under which the joint investigation is conducted specifies that the Ombudsman is to lead the investigation.

(3) Without limiting subsection (1), the report prepared under that subsection must include any recommendations that the investigator makes under section 40TR.

Note: See also section 40TW.

40TV Taking action on report

The Commissioner must ensure that:

(a) any recommendations made in the report under section 40TU are fully considered; and

(b) appropriate action is taken in relation to the issue to which the report relates.

40TW AFP practices issue identified in course of dealing with AFP conduct issue

(1) This section applies if:

(a) the investigator is satisfied that the information:

(i) given under section 40SA in relation to the issue; or

(ii) obtained in the course of dealing with the issue;

raises an AFP practices issue; and

(b) the investigator prepares a report under section 40TU in relation to the investigation.

(2) The investigator:

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(a) must identify the AFP practices issue in the report; and
(b) may include in the report such recommendations as the investigator considers appropriate to address the AFP practices issue.

Subdivision E—Dealing with AFP practices issues

40TX Commissioner to ensure that appropriate action is taken in relation to AFP practices issue

(1) This section applies if:
(a) a person gives information under section 40SA that raises an AFP practices issue; or
(b) an AFP practices issue is:
(i) brought, under section 40TK, to the attention of an AFP appointee; or
(ii) identified, under section 40TW, in a report prepared under section 40TU;
as a result of an AFP conduct issue being dealt with under this Part.

(2) The Commissioner must ensure that appropriate action is taken to have the issue dealt with.

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Division 4—Ministerially directed inquiries

40UA Minister may arrange special inquiries

(1) The Minister may, if he or she thinks it appropriate to do so, arrange for an inquiry to be held, by such person or persons, and in such manner, as he or she determines, concerning:
  (a) any conduct engaged in by an AFP appointee; or
  (b) any matter relating to the practices or procedures of the Australian Federal Police; or
  (c) any other matter relating to the Australian Federal Police.

(2) Subsection (1) applies even if:
  (a) the conduct referred to in paragraph (1)(a) is:
    (i) being dealt with under Division 3; or
    (ii) the subject of a complaint made to the Ombudsman; or
  (b) the matter referred to in paragraph (1)(b) is:
    (i) a practice or procedure that is being dealt with under Division 3; or
    (ii) the subject of a complaint made to the Ombudsman.

40UB Minister to inform certain persons and bodies of inquiry

(1) If the Minister arranges under section 40UA for an inquiry to be held into any conduct or other matter, the Minister must inform the following of the inquiry:
  (a) the Ombudsman;
  (b) the Integrity Commissioner;
  (c) such other persons or bodies as the Minister considers appropriate.

(2) The Minister must inform those people, and those bodies, of:
  (a) the fact that the inquiry will be held; and
  (b) the conduct or matter into which the inquiry is to be held; and
  (c) the person or persons who are to conduct the inquiry; and

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(d) the manner in which the inquiry will be held.

40UC Division 3 investigation may be suspended pending outcome of inquiry

(1) This section applies if:
   (a) the Minister arranges under section 40UA for an inquiry to be held into conduct or a matter; and
   (b) the conduct or matter is being dealt with, or is about to be dealt with, under Division 3.

(2) The Commissioner may suspend further action in relation to the conduct or matter under Division 3 until the inquiry has been completed.

(3) If the Commissioner:
   (a) receives a report in relation to the inquiry; and
   (b) is satisfied, having considered that report, that it is appropriate to do so;

   the Commissioner may terminate the investigation of the conduct or matter under Division 3.

(4) If the conduct or matter is being dealt with under Division 3 jointly by the Ombudsman and the Australian Federal Police, the Commissioner may take action under subsection (2) or (3) only after consulting the Ombudsman.

40UD Reports of special inquiries

(1) If an inquiry is held in accordance with arrangements made under section 40UA, the person holding the inquiry:
   (a) must report to the Minister the results of the inquiry; and
   (b) may make such recommendations (if any) arising out of the inquiry as the person considers appropriate.

(2) On receipt of a report of the results of an inquiry held in accordance with arrangements made under section 40UA, the

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Minister may cause such action to be taken, arising out of the Minister's consideration of the report, as he or she thinks fit.

(3) Without limiting subsection (2), the Minister may do one or more of the following:

(a) give a copy of the report to the Commissioner;

(b) give a copy of the report to the Ombudsman;

(c) give a copy of the report to the Integrity Commissioner;

(d) recommend to the Commissioner that the Commissioner consider directing that training and development action be taken in relation to an AFP appointee;

(e) recommend to the Commissioner that the Commissioner consider directing that remedial action be taken in relation to an AFP appointee;

(f) recommend to the Commissioner that the Commissioner consider directing that termination action be taken in relation to an AFP appointee;

(g) recommend that an AFP appointee be charged with a criminal offence;

(h) refer a corruption issue in relation to an AFP appointee to the Integrity Commissioner.

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Division 5—Investigative powers

40VA Application of Division

(1) This Division applies if a person (the ***investigator***):

(a) is investigating a category 3 conduct issue or a corruption issue under Division 3; or

(b) is conducting an inquiry under Division 4.

(2) The powers provided for in this Division are in addition to any other powers the investigator may have.

Note: For example, if the investigator is a member, or special member, of the Australian Federal Police and the investigation or inquiry involves a possible criminal offence against a law of the Commonwealth, the investigator may have powers in relation to the investigation of offences against the laws of the Commonwealth.

40VB Manner of conducting investigation or inquiry

(1) The investigation or inquiry is to be conducted, subject to this Division, in such manner as the investigator thinks fit.

(2) If the Ombudsman makes an arrangement with the Commissioner under section 8D of the *Ombudsman Act 1976* in relation to the investigation of the issue, the investigator must:

(a) investigate the issue jointly with the Ombudsman; and

(b) investigate the issue in accordance with the arrangement.

(3) If:

(a) the investigator is investigating a category 3 conduct issue or a corruption issue; and

(b) the head of the unit constituted under section 40RD allocated the issue to the investigator;

the head of that unit may give the investigator directions as to the manner in which the investigation is to be conducted and the investigator must comply with those directions.

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(4) Subsection (3) has effect subject to subsection (2).

(5) If:

(a) the investigator is investigating a category 3 conduct issue or a corruption issue; and

(b) the Commissioner allocated the issue to the investigator;

the Commissioner may give the investigator directions as to the manner in which the investigation is to be conducted and the investigator must comply with those directions.

(6) Subsection (5) has effect subject to subsection (2).

(7) If the investigator is conducting an inquiry under Division 4, the Minister may give the investigator directions as to the manner in which the investigation is to be conducted and the investigator must comply with those directions.

(8) A direction given to the investigator under subsection (3), (5) or (7) is not a legislative instrument.

40VC Obtaining information and making inquiries

(1) For the purposes of the investigation or inquiry, the investigator may obtain information from such persons, and make such inquiries, as he or she thinks fit.

(2) Subsection (1) has effect subject to this Division.

40VD Relationship with other laws

(1) Sections 40VB and 40VC do not authorise an AFP appointee to contravene, or fail to comply with, a law that would, if those sections had not been enacted, apply in relation to the investigation or inquiry.

(2) Nothing in subsection (1) affects the operation of any other provision of this Division.

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40VE Directions to AFP appointee

Investigator may give directions to AFP appointee

(1) The investigator may, for the purposes of the investigation or inquiry, direct an AFP appointee:
  (a) to give the investigator information (in the manner and form specified in the direction); or
  (b) to produce to the investigator a document, record or thing; or
  (c) to answer a question; or
  (d) to do anything else that is reasonably necessary for the purposes of obtaining evidence in relation to the investigation or inquiry.

Note: Failure to comply with the direction is an offence against subsection 40VH(1).

(2) A direction under subsection (1) has no effect unless the investigator:
  (a) states in the direction that the AFP appointee to whom the direction is given is being expressly directed under that subsection; and
  (b) specifies in the direction the substance of the subject matter of the investigation or inquiry; and
  (c) if it is practicable to do so—gives the direction in writing; and
  (d) if the direction is given in writing—gives the AFP appointee a copy of the direction.

Obligation to comply with direction

(3) If an AFP appointee is directed under subsection (1) to give information, produce a document, record or thing, answer a question or do something else for the purposes of obtaining evidence, the AFP appointee is not excused from complying with the direction:
  (a) on the ground that complying with the direction:
    (i) would be contrary to the public interest; or

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(ii) might make him or her liable to a penalty; or

(b) on the ground that the information, the production of the document, record or thing, the answer to the question or the evidence obtained by doing that thing might tend to incriminate him or her; or

(c) on any other ground.

Use to which information etc. may be put

(4) The information, the production of the document, record or thing, the answer to the question or the evidence obtained by doing that thing, is not admissible in evidence against the AFP appointee in any civil or criminal proceedings other than:

(a) proceedings for an offence against subsection 40VH(1); or

(b) proceedings in relation to termination action taken in relation to the AFP appointee; or

(c) proceedings under the *Safety, Rehabilitation and Compensation Act 1988*; or

(d) proceedings in tort that the AFP appointee institutes against the Commonwealth.

(5) Nothing in subsection (4) is taken to affect the admissibility in evidence, in any civil or criminal proceedings, of:

(a) any information given by an AFP appointee to the investigator; or

(b) the production of a document, record or thing by an AFP appointee to the investigator; or

(c) an answer given by an AFP appointee to a question put to him or her by the investigator; or

(d) evidence obtained by an AFP appointee doing something for the purposes of obtaining evidence at the request of the investigator;

if the AFP appointee has not been expressly directed, under subsection (1), to give the information, to produce the document, record or thing, to answer the question or to do that thing.

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(6) If a document, record or thing is produced to the investigator under a direction under subsection (1), the investigator may:

(a) examine the document, record or other thing; and

(b) retain possession of the document, record or other thing for such period as is necessary for the purposes of the investigation or inquiry.

If the investigator retains possession of a document, record or thing under paragraph (b) during a particular period, the investigator must allow a person who would be entitled to inspect the document, record or thing if it was not in the investigator's possession to inspect the document, record or thing at all reasonable times.

(7) If a document or record is produced to the investigator under a direction under subsection (1), the investigator may take extracts from, or a copy of, the document or record.

(8) For all the purposes of this Act, and the regulations in force under this Act, a direction given by the investigator under subsection (1) has effect as if it had been given by the Commissioner.

(9) An AFP appointee is not liable to any penalty (other than a penalty under this Act) merely because the appointee:

(a) gives information; or

(b) produces a document, record or thing; or

(c) answers a question; or

(d) does something else;

when directed to do so by the investigator under this section.

Direction is not a legislative instrument

(10) If a direction given by an investigator under subsection (1) is in writing, the direction is not a legislative instrument.

40VF Entering and searching AFP premises

(1) For the purposes of the investigation or inquiry, the investigator may:

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(a) enter, at any time, premises occupied by the Australian Federal Police; and
(b) carry on the investigation or inquiry on those premises; and
(c) search those premises; and
(d) examine any document, record or other thing that is on those premises and that is relevant to the investigation or inquiry; and
(e) take extracts from, or a copy of, any document or record that is on those premises and that is relevant to the investigation or inquiry; and
(f) retain possession of the document, record or thing for such period as is necessary for the purposes of the investigation or inquiry.

(2) If the investigator retains possession of a document, record or thing under paragraph (1)(f) during a particular period, the investigator must allow a person who would be entitled to inspect the document, record or thing, if it was not in the investigator's possession, to inspect the document, record or thing at all reasonable times.

(3) The document, record or thing referred to in paragraph (1)(d), (e) or (f) need not be one that is being used by the Australian Federal Police.

(4) In this section:

premises includes a place, vehicle, vessel and aircraft.

40VG Special powers if investigator conducting inquiry under Division 4

Section applies to inquiries

(1) This section applies if the investigator is conducting an inquiry under Division 4.

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Investigator may give direction

(2) For the purposes of the inquiry, the investigator may:
  (a) direct an AFP appointee to attend before him or her at the time and place specified in the direction and to answer questions relevant to the inquiry when the AFP appointee attends; and
  (b) administer an oath or affirmation to the AFP appointee; and
  (c) examine the AFP appointee on oath or affirmation; and
  (d) by means of sound recording apparatus or otherwise, make a record of any information furnished, or answer given, in compliance with such a direction or cause such a record to be made.

Note: Failure to comply with a direction under paragraph (a), or to be sworn or make an affirmation under paragraph (b), is an offence (see subsection 40VH(1)).

(3) A direction under subsection (2) has no effect unless the investigator:
  (a) states in the direction that the AFP appointee to whom the direction is given is being expressly directed under that subsection; and
  (b) specifies in the direction the substance of the subject matter of the inquiry; and
  (c) if it is practicable to do so—gives the direction in writing; and
  (d) if the direction is given in writing—gives the AFP appointee a copy of the direction.

Obligation to comply with direction

(4) If an AFP appointee is directed under subsection (2) to answer a question, the AFP appointee is not excused from complying with the direction:
  (a) on the ground that answering the question:
    (i) would be contrary to the public interest; or
    (ii) might make him or her liable to a penalty; or

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(b) on the ground that the answer to the question might tend to incriminate him or her; or

(c) on any other ground.

Use to which answer may be put

(5) The answer to the question is not admissible in evidence against the AFP appointee in any civil or criminal proceedings other than:

(a) proceedings for an offence against subsection 40VH(1); or

(b) proceedings in relation to termination action taken in relation to the AFP appointee; or

(c) proceedings under the *Safety, Rehabilitation and Compensation Act 1988*; or

(d) proceedings in tort that the AFP appointee institutes against the Commonwealth.

(6) Nothing in subsection (5) is taken to affect the admissibility in evidence, in any civil or criminal proceedings, of an answer given by an AFP appointee to a question put to him or her by the investigator if the AFP appointee has not been expressly directed, under subsection (2), to answer the question.

Direction has same effect as if given by Commissioner

(7) For all the purposes of this Act, and the regulations in force under this Act, a direction given by the investigator under subsection (2) has effect as if it had been given by the Commissioner.

AFP appointee not liable to penalty for answering question

(8) An AFP appointee is not liable to any penalty (other than a penalty for an offence against subsection 40VH(1)) under the provisions of any other law because the AFP appointee answers a question when directed to do so by the investigator under subsection (2).

Direction is not a legislative instrument

(10) If a direction given by an investigator under subsection (2) is in writing, the direction is not a legislative instrument.

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40VH Offences

(1) An AFP appointee commits an offence if the AFP appointee:

(a) refuses or fails to comply with a direction given under subsection 40VE(1) or 40VG(2); or

(b) refuses or fails to be sworn or make an affirmation, when required to do so under subsection 40VG(2); or

(c) gives information or makes a statement to the investigator knowing that it is false or misleading in a material particular.

Penalty: Imprisonment for 6 months.

(2) Subsection (1) does not apply if the AFP appointee 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) In any proceedings for an offence against subsection (1), the prosecution bears the onus of proving that:

(a) the investigator complied with subsection 40VE(2) in relation to a direction under subsection 40VE(1); or

(b) the investigator complied with subsection 40VG(3) in relation to a direction under subsection 40VG(2).

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Division 6—Record keeping

40WA Record keeping

(1) The Commissioner must ensure that adequate records are kept for the purposes of this Part.

(2) Without limiting subsection (1), the Commissioner must ensure that records are kept of:

(a) information that is given under section 40SA; and

(b) the action (if any) that is taken in relation to the AFP conduct or practices issue raised by that information; and

(c) if the issue is an AFP conduct issue—the action (if any) that is taken in relation to any AFP practices issue that is:

(i) brought, under section 40TK, to the attention of an AFP appointee; or

(ii) identified, under section 40TW, in a report prepared under section 40TU;

as a result of the AFP conduct issue being dealt with under this Part.

(3) Subsection (2) does not apply if subsection 40SC(2) (which deals with category 1 conduct issues that are resolved without being recorded) applies to the information.

(4) The Integrity Commissioner is entitled to have access to the records kept under this section for the purposes of performing the Integrity Commissioner's functions.

(5) Without limiting section 40XC, the Ombudsman is entitled to have access to the records kept under this section for the purposes of performing the Ombudsman's functions.

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40WB Records about corruption issues

(1) The Integrity Commissioner may direct the Commissioner that access to information about a corruption issue is to be restricted in the way specified in the direction.

Note: For example, the Integrity Commissioner might direct that the information that would otherwise be entered on a database is not to be entered on the database or that, if the information is entered on a database, access to the information on the database is to be restricted in some way.

(2) The Commissioner must comply with the direction.

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Division 7—Ombudsman review

40XA Annual reviews by Ombudsman

(1) For the purposes of this section, the ***review periods*** are:
  (a) the period of 12 months commencing on the day on which the *Law Enforcement (AFP Professional Standards and Related Measures) Act 2006* commences; and
  (b) each succeeding period of 12 months.

(2) At least once in each review period, the Ombudsman must, for the purposes of reviewing the administration of this Part during that period, inspect the records of AFP conduct issues and AFP practices issues that have been, or are being, dealt with under Divisions 3 and 4 during that period.

40XB Ad hoc reviews by Ombudsman

The Ombudsman may, at any time, inspect the records of AFP conduct issues and AFP practices issues dealt with under Divisions 3 and 4 for the purposes of reviewing the administration of this Part.

40XC Commissioner to provide information and access to documents

For the purposes of a review conducted under section 40XA or 40XB, the Ombudsman may require the Commissioner to give the Ombudsman the information, and the access to documents, that the Ombudsman requests.

40XD Annual reports by Ombudsman

(1) The Ombudsman must, as soon as practicable after 30 June each year, prepare a report of the Ombudsman's work and activities under this Division during the preceding 12 months and give copies of the report to the President of the Senate and the Speaker

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of the House of Representatives for presentation to the Senate and the House of Representatives, respectively.

(2) The report must include comments as to the comprehensiveness and adequacy of the administration of matters under Divisions 3 and 4.

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Division 8—Offences

40YA Victimisation

(1) A person commits an offence if the person causes, or threatens to cause, detriment to another person (the ***victim***) on the ground that the victim, or any other person:

(a) has given, or may give, information under this Part; or

(b) has produced, or may produce, a document, record or thing to a person under this Part.

Penalty: Imprisonment for 6 months.

(2) For the purposes of subsection (1), a threat may be:

(a) express or implied; or

(b) conditional or unconditional.

(3) In a prosecution for an offence against subsection (1), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

40YB Providing false information about AFP conduct or practices issues

A person commits an offence if:

(a) the person:

(i) gives information under section 40SA that raises an AFP conduct or practices issue; or

(ii) otherwise gives an AFP appointee information in relation to an AFP conduct or practices issue; and

(b) the person knows that the information is false in a material particular.

Penalty: 20 penalty units.

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40YC AFP appointees to provide name, etc.

An AFP appointee commits an offence if:

(a) a person requests the AFP appointee to give the person any of the following:
  (i) his or her name;
  (ii) the address of his or her place of duty;
  (iii) his or her identification number if her or she has an identification number; and

(b) the person informs the AFP appointee, either expressly or by necessary implication, that the person:
  (i) is complaining, or proposes to complain, about action taken by that AFP appointee; or
  (ii) is giving information, or proposed to give information, under section 40SA about an AFP conduct issue that relates to conduct engaged in by that AFP appointee; and

(c) the AFP appointee:
  (i) refuses or fails, without reasonable excuse, to comply with the request; or
  (ii) gives the person a name, address or identification number that is false in a material particular.

Penalty: 5 penalty units.

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Division 9—Secrecy

40ZA Secrecy

(1) This section applies to a person (other than an AFP appointee or the Ombudsman) who conducts:

(a) an investigation of a category 3 conduct issue or a corruption issue under Subdivision D of Division 3; or

(b) an inquiry under Division 4.

Note 1: AFP appointees are covered by the confidentiality requirements of section 60A.

Note 2: The Ombudsman is covered by the confidentiality requirements of section 35 of the *Ombudsman Act 1976*.

(2) A person who is, or has been, a person to whom this section applies commits an offence if:

(a) the person (either directly or indirectly and either while he or she is, or after he or she has ceased to be, a person to whom this section applies):

(i) makes a record of information; or

(ii) divulges or communicates information; and

(b) the information was given to, or obtained by, the person in the course of, or for the purposes of, the investigation or inquiry.

Penalty: 30 penalty units.

(3) Subsection (2) has effect subject to subsections (4), (5) and (6).

(4) Subsection (2) does not prevent a person who is, or has been, a person to whom this section applies from making a record of, or divulging or communicating, information for the purposes of the investigation or inquiry.

(5) Subsection (2) does not prevent a person who is, or has been, a person to whom this section applies from making a record of, or

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divulging or communicating, information with the written consent of the appropriate person.

(6) Subsection (2) does not prevent a person from producing a record, or giving information, in evidence before a court.

(7) For the purposes of this section, the ***appropriate person*** is:

(a) the Minister in relation to a person who is conducting, or has conducted, an inquiry under Division 4; and

(b) the Commissioner in relation to any other person to whom this section applies.

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Part VA—Loss of certain superannuation rights and benefits

Division 1—Introductory

41 Definitions

In this part:

abscond has the meaning given in section 42A.

appropriate court means:

(a) in relation to a person's conviction of an offence—the court of the State or Territory before which the person was convicted and, in addition, where that court is not the Supreme Court of the State or Territory, that Supreme Court; and

(b) in relation to the charging, or proposed charging, of a person with an offence—the Supreme Court of the State or Territory in which the person has been, or is to be, charged with the offence.

benefit means any benefit payable under a superannuation scheme, including a lump sum payment and a pension.

changeover day means the day on which Schedule 1 to the *Australian Federal Police Legislation Amendment Act 1999* commences.

commencing day means the day on which this Part commences.

Commonwealth organisation means:

(a) a body corporate incorporated for a public purpose (whether before, on or after the commencing day) by a law of the Commonwealth or of a Territory; or

(b) a body corporate:

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(i) incorporated (whether before, on or after the commencing day) under a law of the Commonwealth or a law in force in a State or Territory; and

(ii) in which the Commonwealth or a body corporate mentioned in paragraph (a) has the controlling interest; or

(c) a body corporate, whether incorporated before, on or after the commencing day:

(i) that is a subsidiary of another body corporate mentioned in paragraph (a) or (b); and

(ii) in which that other body corporate has the controlling interest; or

(d) an unincorporated authority or body (other than a prescribed authority or body) established for a public purpose (whether before, on or after the commencing day) by or under a law of the Commonwealth, of a Territory or of the Northern Territory; or

(e) any other incorporated or unincorporated authority or body (however established), other than a prescribed authority or body, that is wholly or substantially financed, either directly or indirectly, by the Commonwealth, whether the authority or body was or is established before, on or after the commencing day.

controlling interest, in relation to a body corporate, means an interest that derives from ownership of at least 50% of the shares in the body corporate that confer voting rights.

convicted has the meaning given in section 42C.

corruption offence means an offence by a person who was an AFP employee or an old law member or staff member at the time when it was committed, being an offence:

(a) whose commission involved an abuse by the person of his or her office as such a person;

(b) that, having regard to the powers and duties of such a person, as the case may be, was committed for a purpose that involved corruption; or

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(c) that was committed for the purpose of perverting, or attempting to pervert, the course of justice.

defendant, in Division 3A, has the meaning given in section 49A.

DPP means the Director of Public Prosecutions.

employee contributions, in relation to a person, includes:

(a) any amount paid or transferred into a fund, being an amount that is, under the person's superannuation scheme, to be taken to be employee contributions; and

(b) any other amount paid or transferred into a fund under the person's superannuation scheme, being an amount:

(i) attributable to employer contributions paid by the person's previous employer under another superannuation scheme (not being a superannuation scheme within the meaning of this Act) applicable to the person's previous employment by that employer; and

(ii) payable to the person as an additional lump sum benefit on his or her resignation or retirement.

encumbrance, in relation to property, includes any interest, mortgage, charge, right, claim or demand in respect of the property.

fund includes the Consolidated Revenue Fund.

interest, in relation to property, means:

(a) a legal or equitable estate or interest in the property; or

(b) a right, power or privilege in connection with the property;

whether present or future and whether vested or contingent.

member, in relation to a superannuation scheme, includes a person who is eligible for a benefit (including a deferred benefit) under the scheme.

offence means:

(a) a common law offence; or

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(b) an offence against a law of the Commonwealth or of a State or Territory, being an offence punishable by imprisonment for life or for a term longer than 12 months.

old law member or staff member has the meaning given by section 41A.

property means real or personal property of every description, whether situated in Australia or anywhere else and whether tangible or intangible, and includes an interest in any such real or personal property.

recovery order means a superannuation order containing an order of the kind mentioned in subsection 46(4) or (4A).

relevant period, in relation to a restraining order, means the period starting on the day when the order was made and ending:

(a) if an order or orders have been made under section 49Q—at the time, or on the occurrence of the event, specified in the order, or the last of the orders, so made; or

(b) if paragraph (a) does not apply but an order or orders have been made under paragraph 49J(1)(a) or (b) in relation to the restraining order—at the end of 6 months after the day when the order, or the last of the orders, was so made, or such longer period (if any) as is specified in the order, or the last of the orders; or

(c) in any other case—at the end of 6 months after the day on which the restraining order was made, or such longer period (if any) as is specified in the order.

restraining order means an order under section 49B.

sentence includes a suspended sentence, but does not include a sentence passed, or an order made, under subsection 20AB(1) of the *Crimes Act 1914*.

superannuation authority means:

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(a) in relation to the superannuation scheme established by the *Superannuation Act 1976* or by deed under the *Superannuation Act 1990*—CSC; or

(b) in any other case—the person (however described) responsible for the administration of the relevant superannuation scheme.

superannuation order means an order under section 46, and includes such an order as varied under section 47A.

superannuation scheme, in relation to a person, means a superannuation scheme (other than a scheme established under a law of a State or Territory) under which employer contributions or benefits are paid or payable, or have at any time been paid, by the Commonwealth or a Commonwealth organisation to or in respect of the person, and includes any scheme or organisation under which such contributions are vested in the person.

41A Old law members or staff members

For the purposes of this Part, if at a particular time before the changeover day a person was a member or staff member (within the meaning of this Act as in force at that time), the person was an ***old law member or staff member*** at that time.

42 Related offences

For the purposes of this Act, 2 offences are related to each other if the physical elements of the 2 offences are:

(a) substantially the same acts or omissions; or

(b) acts or omissions in a single series.

42A Abscond

For the purposes of this Part, other than subsection 46(2), a person is to be taken to abscond in connection with an offence if and only if:

(a) the person is charged with the offence; and

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(b) a warrant for the arrest of the person is issued in relation to that information; and

(c) one of the following happens:

(i) at the end of the period of 6 months starting on the day on which the warrant is issued:

(A) the person cannot be found; or

(B) the person is, for any other reason, not amenable to justice and, if the person is outside Australia, extradition proceedings are not on foot;

(ii) at the end of the period of 6 months starting on the day on which the warrant is issued:

(A) the person is not amenable to justice because he or she is outside Australia; and

(B) extradition proceedings are on foot;

and those proceedings later end without an order for the person's extradition.

42B Charge with offence

A reference in this Part to a person being charged with an offence is a reference to an information being laid against the person for the offence, whether or not:

(a) a summons has been issued requiring the attendance of the person to answer the information; or

(b) a warrant for the arrest of the person has been issued.

42C Conviction and quashing of conviction

(1) For the purposes of this Part, a person is to be taken to be convicted of an offence if:

(a) the person is convicted of the offence, whether summarily or on indictment; or

(b) the person absconds in connection with the offence.

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(2) For the purposes of this Part, a person is to be taken to have been convicted of an offence in a particular State or Territory if:
  (a) where paragraph (1)(a) applies—the person was convicted of the offence in a court in that State or Territory; or
  (b) where paragraph (1)(b) applies—the information relating to the offence was laid in that State or Territory.

(3) For the purposes of this Part, where a person is to be taken to have been convicted of an offence in a particular State or Territory because of paragraph (2)(b), the person is to be taken to have been so convicted before the Supreme Court of that State or Territory.

(4) For the purposes of this Part, a person's conviction of an offence is to be taken to be quashed:
  (a) where paragraph (1)(a) applies—if the conviction is quashed or set aside; or
  (b) where paragraph (1)(b) applies—if, after the person is brought before a court in respect of the offence, the person is discharged in respect of the offence or a conviction of the person for the offence is quashed or set aside.

(5) A reference in this Part, in relation to a person's conviction of an offence, to the commission of the offence is, where paragraph (1)(b) applies, a reference to the alleged commission of the offence by the person.

42D Property of a person

(1) For the purpose of making a restraining order against the property of a person, that property is to be taken to include property in which the person has a beneficial interest.

(2) For the purpose of making a restraining order against the property of a person who is a defendant within the meaning of Division 3A, that property is to be taken to include:
  (a) any property of the person that has been transferred by way of gift to another person within 2 years immediately before the day on which the restraining order is made or the day on

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which the person is charged with the relevant offence, whichever is the first to happen; or

(b) where property of the person has been transferred to another person within that period for a consideration whose value is less than the commercial value of the property when the transfer was made—an interest in the property equal to the proportion worked out using the formula:

$$\frac{VP - VC}{VP}$$

where:

VP (value of the property) is the number of dollars in the commercial value of the property when the transfer was made.

VC (value of consideration) is the number of dollars in the value of the consideration for the transfer when the transfer was made.

(3) Property that is to be taken to be property of a person under subsection (1) is available to satisfy a recovery order made against the person, whether or not a restraining order has been made against the property.

(4) Property that is to be taken to be property of a person under subsection (2) is available to satisfy a recovery order made against the person if, and only if, a restraining order has been made against the property.

42E Dealing with property

For the purposes of this Part, dealing with property of a person includes:

(a) if a debt owing by the person is secured by an encumbrance on the property—incurring any further liability or increasing the amount of the debt by any means; and

(b) removing the property from Australia; and

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(c) receiving or making a gift of the property.

42F Effective control of property

(1) Property may be subject to the effective control of a person within the meaning of this Part, whether or not the person has an interest in the property.

(2) Without limiting the generality of any other provision of this Part, in determining:

(a) whether or not property is subject to the effective control of a person; or

(b) whether or not there are reasonable grounds to believe that property is subject to the effective control of a person;

regard may be had to:

(c) shareholdings in, debentures over or directorships of a company that has an interest (whether direct or indirect) in the property; and

(d) a trust that has a relationship to the property; and

(e) family, domestic and business relationships between persons having an interest in the property, or in companies of the kind mentioned in paragraph (c) or trusts of the kind mentioned in paragraph (d), and other persons.

(3) For the purposes of paragraph (2)(e), family relationships are taken to include the following (without limitation):

(a) relationships between de facto partners (within the meaning of the *Acts Interpretation Act 1901*);

(b) relationships of child and parent that arise if someone is the child of a person because of the definition of ***child*** in this section;

(c) relationships traced through relationships mentioned in paragraphs (a) and (b).

(4) In this section:

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child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

42G Sufficient consideration

A reference in this Part to transferring or acquiring property, or an interest in property, for sufficient consideration is a reference to transferring or acquiring the property or interest for a consideration that is sufficient and, having regard solely to commercial considerations, reflects the value of the property or the interest.

42H Application of Part to convictions and offences

(1) This Part does not apply to a person's conviction of an offence if the conviction happened before the commencing day.

(2) This Part applies to an offence committed, or believed to have been committed, at any time, whether before, on or after the commencing day.

42J Crown bound

(1) This Part binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

(2) Nothing in this Part renders the Crown liable to be prosecuted for an offence.

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Division 2—Loss of superannuation: corruption offences

43 Notice of charge etc.

(1) Where:

(a) either:

(i) a person who is or was an AFP employee is charged with an offence; or

(ii) a person who was an old law member or staff member at any time is charged with an offence; and

(b) the Commissioner considers that the offence is, or may be, a corruption offence;

the Commissioner shall notify the Minister administering the *Crimes (Superannuation Benefits) Act 1989* in writing of the charge.

(2) A notice shall contain particulars of the charge and set out the reasons why the Commissioner considers that the offence is, or may be, a corruption offence.

(3) Where the Commissioner notifies the Minister administering the *Crimes (Superannuation Benefits) Act 1989* that a person has been charged with an offence, the Commissioner shall notify that Minister in writing if:

(a) the person is acquitted or convicted of the offence; or

(b) the charge is withdrawn or otherwise disposed of without the conviction of the person.

44 Authority to apply for superannuation order

Where:

(a) either:

(i) a person who is or was an AFP employee is convicted of an offence; or

(ii) a person who was an old law member or staff member at any time is convicted of an offence; and

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(b) the Minister administering the *Crimes (Superannuation Benefits) Act 1989* is of the opinion that the offence is a corruption offence;

that Minister shall, by notice in writing, authorise the DPP to apply to the appropriate court for a superannuation order in respect of the person.

45 Application for superannuation order

(1) If the DPP is authorised to apply for a superannuation order in respect of a person who is taken to have been convicted of an offence because of paragraph 42C(1)(b), the DPP must make that application to the appropriate court.

(1A) If:

(a) the DPP is authorised to apply for a superannuation order in respect of a person who is convicted of 1 or more offences; and

(b) the person is sentenced to imprisonment for life in respect of the offence, or any of the offences, or:

(i) if there is only 1 offence—to imprisonment for a term longer than 12 months; or

(ii) if there are 2 or more offences—to imprisonment for a single term longer than 12 months, or to cumulative terms that together add up to longer than 12 months, in respect of all or any of them;

the DPP must make that application to the appropriate court.

(2) The DPP must not make an application for a superannuation order otherwise than under this section.

(3) The DPP must take reasonable steps to give written notice of an application to the person in respect of whom the superannuation order is sought.

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45A Application for superannuation order: evidence

(1) In determining an application for a superannuation order in respect of a person, the appropriate court may have regard to the transcript of any proceedings against the person for the offence to which the application relates and to the evidence given in any such proceedings.

(2) In an application for a superannuation order, any finding of fact made by a court in any proceedings for the offence to which the application relates, is prima facie evidence of that fact and the finding may be proved by the production of documents, under the seal of the court, in which the finding appears.

(3) In an application for a superannuation order in respect of a person, a certificate signed or sealed by the person's superannuation authority:

(a) stating that employer contributions or benefits made or payable by the Commonwealth or a specified Commonwealth organisation in respect of the person are held in a specified fund under the relevant superannuation scheme; and

(b) stating the amount that equals the sum of those contributions or benefits as at the specified day plus the amount of interest on those contributions or benefits accrued under the scheme before that day;

is prima facie evidence of the matters stated in the certificate.

(4) In an application for a superannuation order in respect of the person, a certificate signed or sealed by the person's superannuation authority:

(a) stating that benefits have been paid to the person under the relevant superannuation scheme; and

(b) stating the amount that equals the sum of the benefits so paid as at the specified day; and

(c) stating another amount that equals the part of the amount mentioned in paragraph (b) that is attributable to the sum of the employee contributions paid under the scheme by the

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person as at the specified day plus the amount of interest on those contributions accrued under the scheme before that day;

is prima facie evidence of the matters stated in the certificate.

(5) A document purporting to be sealed with the seal of a court is to be taken to have been lawfully sealed with the seal of that court unless the contrary is proved.

(6) A document purporting to be signed or sealed by a person's superannuation authority is to be taken to have been signed or duly sealed by that superannuation authority unless the contrary is proved.

46 Superannuation orders

(1) Subject to subsection (2), where an application is made to an appropriate court for a superannuation order in respect of a person, the court shall, if satisfied that the offence to which the application relates is a corruption offence, by order, declare that:

(a) the person was convicted of a corruption offence; and

(b) this Part applies in relation to:

(i) the rights of, and benefits paid or payable to or in respect of, the person under any superannuation scheme; and

(ii) any entitlement of the person to receive an adjustment payment.

(2) Where a person is, because of paragraph 42C(1)(b), to be taken to have been convicted of an offence, a court must not make a superannuation order in relation to the person unless the court is also satisfied, on the balance of probabilities, that the person has absconded and:

(a) the person has been committed for trial for the offence; or

(b) the court is satisfied, having regard to all the evidence before it, that a reasonable jury, properly instructed, could lawfully find the person guilty of the offence.

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(3) Where:

(a) employer contributions or benefits made or payable by the Commonwealth or a Commonwealth organisation in respect of the person under any superannuation scheme for any period of employment (not just a period during which the offence was committed) have been paid into, and are held in, a fund under the scheme; and

(b) the person would, but for subsection 47(1), become entitled, subject to and in accordance with the scheme, to the benefit, or to a benefit attributable to the employer contributions, as the case may be;

the court must:

(c) work out, and specify in the superannuation order, the amount that it thinks reflects the value of the sum of those contributions or benefits as at the day on which the order is made, plus the interest on those contributions or benefits accrued under the scheme before that day; and

(d) include in the superannuation order an order that the amount so specified be paid to the Commonwealth or Commonwealth organisation, whichever the court considers appropriate.

(4) Where any benefits have been paid to the person under any superannuation scheme (whether before, on or after the commencing day) the court must:

(a) specify in the superannuation order the amount worked out using the formula:

AB – EC

where:

AB (amount of benefits) is the amount that the court thinks reflects the value of the sum of the benefits paid by the Commonwealth or Commonwealth organisation to the person under the scheme for any period of employment (not just a period during which the offence was committed) as at the day on which the order is made.

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EC (employee contributions) is an amount that the court thinks is equal to the part of ***AB*** that is attributable to the sum of the employee contributions paid under the scheme by the person as at that day plus the interest on those contributions accrued under the scheme before that day; and

(b) include in the superannuation order an order that the person pay the amount so specified to the Commonwealth or Commonwealth organisation, whichever the court considers appropriate.

(4A) Where the person has received an adjustment payment, the court must:

(a) work out, and specify in the superannuation order, the amount that it thinks reflects the value of the amount of the payment as at the day on which the order is made; and

(b) include in the superannuation order an order that the person pay the amount so specified to the Commonwealth.

(5) For the purposes of subsection (4), the value of an amount of employer contributions or benefits, and of accrued interest, is their value worked out having regard to any decline in the purchasing power of money between the day on which the contributions or benefits were made or paid, or the interest accrued, as the case may be, and the day as at which their value must be worked out.

(5A) For the purposes of subsection (4A), the value of an amount of an adjustment payment is its value worked out having regard to any decline in the purchasing power of money between the day on which the amount was paid and the day as at which its value must be worked out.

(6) The DPP must give written notice of a superannuation order to the person's superannuation authority.

46A When does a superannuation order take effect?

(1) A superannuation order made in relation to a person who has absconded takes effect on the day on which it is made.

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(2) A superannuation order made in relation to a person, other than a person who has absconded, does not take effect until:

(a) the end of the period (if any) allowed for appealing against the conviction or sentence under the relevant Commonwealth, State or Territory law; or

(b) if the person appeals against his or her conviction or sentence, or both—the appeal, and any proceedings resulting from it, are finally determined, withdrawn or otherwise disposed of.

47 Effect of superannuation order

(1) Where a court makes a superannuation order in respect of a person:

(a) all rights of, and benefits payable to or in respect of, the person or a dependant of the person (being rights or benefits arising out of the person's membership of any superannuation scheme) cease, or cease to be payable, on the day on which the order takes effect and the person ceases to be a member of the scheme on that day; and

(aa) any entitlement of the person to an adjustment payment ceases on that day and an adjustment payment is not payable to the person on or after that day; and

(b) any amount of the kind mentioned in subsection 46(3) that is vested in the person ceases to be so vested on that day; and

(c) the Commonwealth or a Commonwealth organisation is not liable to pay any employer contribution or benefit under the scheme in respect of the person on or after that day.

(1A) An amount payable by a person to the Commonwealth or a Commonwealth organisation under a superannuation order is a debt due by the person to the Commonwealth or the Commonwealth organisation, as the case may be.

(1B) An order under subsection 46(3), (4) or (4A) against a person may be enforced as if it were an order made in civil proceedings instituted by the Commonwealth or the relevant Commonwealth organisation against the person to recover a debt due by the person

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to the Commonwealth or the Commonwealth organisation, and the debt arising from the order is to be taken to be a judgment debt.

(2) Despite the Superannuation Act, or any other Act or any agreement, where subsection (1) applies to a person who is an AFP employee, the person is entitled, on the day on which he or she ceases to be a member of the relevant superannuation scheme, to payment of an amount equal to the sum of the employee contributions paid under the scheme by the person (being contributions that are held in a fund under the scheme) plus the amount of interest on those contributions accrued under the scheme.

(3) Despite the Superannuation Act, or any other Act or any agreement, where subsection (1) applies to a person:

(a) who:

(i) was an AFP employee at the time the relevant corruption offence was committed but was not such an employee when charged with that offence; or

(ii) was an old law member or staff member at the time the relevant corruption offence was committed but was not such a member or an AFP employee when charged with that offence; and

(b) who would, but for that subsection, have been entitled to payment of benefits under the relevant superannuation scheme on or after the day on which the superannuation order takes effect;

the person is entitled, on the day on which he or she ceases to be a member of the scheme, to payment of an amount worked out using the formula:

AC – AR

where:

AC is an amount equal to the sum of the employee contributions paid under the scheme by the person plus the amount of interest on those contributions accrued under the scheme; and

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AR is an amount equal to that part of the sum of all amounts paid to the person by way of benefit before the day on which the superannuation order takes effect that is attributable to ***AC***.

47A Superannuation orders: variation

(1) If a superannuation order made in respect of a person:
   (a) specifies an amount under subsection 46(3) or (4); and
   (b) takes effect on a day that is later than the day on which the order is made;

the DPP may, as soon as practicable after the order takes effect, apply to the court that made the order to vary the order by substituting for the specified amount an increased amount, having regard to any amount of employer contributions or benefits paid by the Commonwealth or a Commonwealth organisation in respect of the person during the prescribed period.

(2) Where an application is made, the court must vary the superannuation order accordingly and, for the purposes of working out the increased amount to be specified in the superannuation order, as varied, subsections 46(3), (4) and (5) apply as if references in subsections 46(3) and (4) to the day on which the order is made were references to the day on which the variation is made.

(3) In this section:

prescribed period means the period starting on the day on which the superannuation order is made and ending on the day on which the variation is made.

47B Superannuation orders: revocation

(1) A superannuation order made in relation to a person is to be taken to have been revoked if:
   (a) the person's conviction is quashed; or

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(b) the person's sentence is so reduced or otherwise changed that it would no longer support the making of an application for a superannuation order under subsection 45(1A); or

(c) where the person is taken to be convicted because of paragraph 42C(1)(b)—the person is brought before a court in respect of the offence concerned and, having been convicted of that offence, does not receive a sentence that would support the making of an application for a superannuation order under subsection 45(1A).

(2) Where a superannuation order is taken to have been revoked, the DPP must give written notice of the fact to:

(a) the person in respect of whom the order was made; and

(b) the person's superannuation authority.

(3) Where:

(a) a superannuation order is made in relation to a person who is taken to be convicted because of paragraph 42C(1)(b); and

(b) the superannuation order is to be taken to have been revoked;

there is payable to the person an amount determined by the Finance Minister, being an amount that the Minister administering the *Crimes (Superannuation Benefits) Act 1989* considers to be a fair recompense to the person, having regard to:

(c) any amount paid to the person under subsection 47(2) or (3); and

(d) any amount recovered from the person under a recovery order against the person; and

(e) any other financial loss sustained by the person as a result of the superannuation order; and

(f) any other matters that the Minister administering the *Crimes (Superannuation Benefits) Act 1989* thinks are relevant in the circumstances of the case.

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Division 3A—Restraining orders

49A Application for restraining order

(1) Where a person (in this Division called ***the defendant***):

(a) has been convicted of an offence; or

(b) has been, or is about to be, charged with an offence;

the DPP may apply to the appropriate court for a restraining order against specified property of the defendant or of another person, or both.

(2) For the purposes of an application, the DPP may, on behalf of the Commonwealth, give the court such undertakings with respect to the payment of damages or costs, or both, as the court requires.

49B Making of restraining orders

(1) Subject to this Division, where an application is made for a restraining order against property and the appropriate court is satisfied that:

(a) the offence concerned is, or may be, a corruption offence; and

(b) if the defendant has been sentenced in respect of the offence—the sentence would support the making of an application for a superannuation order under subsection 45(1A); and

(c) the defendant is, or has been, a member of a superannuation scheme;

the court may, by order, direct that the property, or such part of the property as is specified in the order, is not to be disposed of, or otherwise dealt with, by any person except in the manner and circumstances (if any) specified in the order.

(2) A restraining order must not be made against a person's property to any extent greater than is necessary to ensure the recovery of any

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amount payable, or reasonably likely to be payable, by the defendant under a recovery order.

(3) Subsection (2) does not prevent the court from making a restraining order against a person's property, being property whose value is more than the amount payable, or reasonably likely to be payable, by the defendant under a recovery order if there is no other property of sufficient value in respect of which the court can make a restraining order.

(4) A court may make a restraining order against property whether or not there is any risk of the property being disposed of, or otherwise dealt with, in a manner that would defeat the operation of this Part.

(5) Where the application is made in reliance on the proposed charging of the defendant with the offence concerned, the court must not make a restraining order unless satisfied that the defendant will be charged with the offence, or with a related corruption offence, within 48 hours.

(6) A court may refuse to make a restraining order if the Commonwealth refuses or fails to give the court such undertakings as the court considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and operation of the order.

49C Restraining order may be subject to conditions

(1) A restraining order against a person's property may be made subject to such conditions as the court thinks fit, for example, conditions providing for meeting, out of the property or a specified part of the property, all or any of the following:

(a) the person's reasonable living expenses (including the reasonable living expenses of any dependants of the person) and reasonable business expenses;

(b) the person's taxed legal expenses in defending a criminal charge;

(c) a specified debt incurred by the person in good faith (being a debt to which neither paragraph (a) or (b) applies).

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(2) The court must not make provision of a kind mentioned in subsection (1) unless satisfied that the person cannot meet the expense or debt concerned out of property that is not subject to a restraining order.

49D Affidavit of police officer needed in certain cases

(1) Where an application is made for a restraining order and the defendant has not been convicted of the offence concerned, the court must not make a restraining order unless:

(a) the application for the order is supported by an affidavit of a police officer stating that the officer believes the defendant committed the offence; and

(b) the court is satisfied, having regard to the matters contained in the affidavit, that there are reasonable grounds for so believing.

(2) Where an application for a restraining order is made against specified property of a person other than the defendant, the court must not make a restraining order against the property unless:

(a) the application is supported by an affidavit of a police officer stating that the officer believes that the property is subject to the effective control of the defendant; and

(b) the court is satisfied, having regard to the matters contained in the affidavit, that there are reasonable grounds for so believing.

(3) An affidavit made by a police officer for the purpose of this section stating that the officer believes a particular matter must set out the grounds on which the officer holds that belief.

(4) The court may, at any time before the final determination of an application for:

(a) a restraining order; or

(b) an extension of the period of effect of a restraining order;

direct the DPP to give or publish notice of the application to a specified person or class of persons in the manner and within the time the court thinks appropriate.

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(5) In this section:

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

49E Notice of application for restraining order

(1) Subject to subsection (2), the DPP must give written notice of an application for a restraining order against property to:
  (a) the owner of the property; and
  (b) any other person the DPP has reason to believe may have an interest in the property.

(2) Where notice of an application has not been given, the court must consider the application if the DPP asks it to do so but, subject to section 49EA, a restraining order made by virtue of this subsection ceases to have effect at the end of the period (not exceeding 14 days) specified by the court in the restraining order.

49EA Extension of certain restraining orders

(1) Subject to subsection (2), the court may, on application made by the DPP before the end of the period mentioned in subsection 49E(2), extend the period of operation of a restraining order made in reliance on that subsection.

(2) Subsections 49D(1), (2), (3) and (5) apply, with the necessary changes made, to the extension of the period of operation of a restraining order made in reliance on subsection 49E(2) in the same way as they apply to the making of a restraining order.

(3) The DPP must give written notice of an application under subsection (1) for the extension of a restraining order to:
  (a) the owner of the property against which the restraining order was made; and
  (b) any other person who the DPP has reason to believe may have an interest in the property.

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49F Persons who may appear and adduce evidence

(1) Where:

(a) the DPP applies for a restraining order against property; and

(b) notice of the application is given under subsection 49E(1);

any person who claims an interest in the property may appear and adduce evidence at the hearing of the application.

(2) Where the DPP applies for the extension of the period of effect of a restraining order made in respect of property, any person who claims an interest in the property may appear and adduce evidence at the hearing of the application.

49G Witnesses not required to answer questions etc. in certain cases

On the hearing of an application for a restraining order, a witness is not required to answer a question or to produce a document if the court is satisfied that the answering of the question or the production of the document may prejudice the investigation of, or the prosecution of a person for, an offence.

49H Notice of restraining orders

(1) Subject to subsection (2), where a restraining order is made against a person's property, the DPP must give the person written notice of the order.

(2) Where:

(a) a court makes a restraining order; and

(b) the court is satisfied that it would be in the public interest to delay giving notice of the order to a person;

the court may include in the restraining order an order that giving the person notice of the restraining order be delayed for the specified period and the DPP must give the person notice of the restraining order as soon as practicable after the end of the specified period.

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49J Ancillary orders

(1) Where an appropriate court makes a restraining order, it may, at the same time or at any later time, make any ancillary orders that it thinks appropriate, for example:

(a) an order varying the property to which the restraining order relates;

(b) an order varying any condition to which the restraining order is subject; and

(c) an order for the examination on oath before the court or the Registrar of the court of any person, including:

(i) the owner of property subject to the restraining order (in this paragraph called the ***owner***); or

(ii) the defendant;

about the affairs (including the nature and location of any property) of:

(iii) anyone else who is either the owner or the defendant, or both; and

(iv) if the person to be examined is either the owner or the defendant, or both—that person; and

(d) an order about carrying out any undertaking with respect to the payment of damages or costs given by the Commonwealth in connection with the making of the restraining order.

(2) An ancillary order may be made on application by:

(a) the DPP; or

(b) the owner of property subject to the restraining order; or

(c) with the leave of the court—any other person.

(3) Where:

(a) a defendant has been convicted of, or has been charged or is about to be charged with, an offence; and

(b) an appropriate court makes a restraining order against property in reliance on the conviction, charging or proposed charging; and

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(c) a person, other than the defendant, who has an interest in the property applies to the court for a variation of the order to exclude the person's interest from the order;

the court must grant the application if satisfied that the applicant's interest in the property is not subject to the effective control of the defendant.

(4) Where a person is examined before a court or a registrar under an order under subsection (1), the person is not excused from answering a question when required to do so by the court or registrar, as the case may be, on the ground that the answer to the question might tend to incriminate the person or make the person liable to forfeiture or a penalty.

(5) Where a person is examined before a court or registrar under an order under subsection (1), the statement or disclosure made by the person in answer to a question put in the course of the examination, and any information, document or thing obtained as a direct or indirect result of the statement or disclosure, is not admissible against the person in any criminal proceedings except a proceeding for giving false testimony in the course of the examination.

(6) For the purposes of subsection (5), proceedings on an application for a superannuation order or a restraining order are not criminal proceedings.

(7) On the hearing of an application for an order under subsection (1), a witness is not required to answer a question or to produce a document if the court is satisfied that the answering of the question or the production of the document may prejudice the investigation of, or the prosecution of the person for, an offence.

49K Charge on property subject to restraining order

(1) Where:

(a) a recovery order is made against a defendant; and

(b) a restraining order is, or has been, made against:

(i) property of the defendant; or

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(ii) property of another person in relation to which an order is, or has been, made under subsection 53A(1);

in reliance on the defendant's conviction of a particular offence or a related corruption offence or on the charging, or proposed charging, of the defendant with a particular offence or a related corruption offence;

then, upon the making of the later of the orders, there is created, by force of this section, a charge on the property to secure the payment of the amount specified in the recovery order to the Commonwealth or the relevant Commonwealth organisation, as the case requires.

(2) A charge on property of a person ceases to have effect:

(a) if the relevant recovery order ceases to have effect; or

(b) upon payment to the Commonwealth, or the relevant Commonwealth organisation, of the amount specified in the order; or

(c) upon the person becoming a bankrupt; or

(d) upon the sale or other disposition of the property by the owner of the property with the consent of the court that made the recovery order; or

(e) upon the sale of the property to a purchaser in good faith for sufficient consideration who, at the time of the purchase, has no notice of the charge;

whichever first occurs.

(3) A charge on property:

(a) is subject to every encumbrance on the property that came into existence before the charge and that would, but for this subsection, have priority over the charge; and

(b) has priority over all other encumbrances; and

(c) subject to subsection (2), is not affected by any change of ownership of the property.

(4) Where:

(a) a charge is created on property of a particular kind; and

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(b) the provisions of any law of the Commonwealth or of a State or Territory provide for the registration of title to, or charges over, property of that kind;

the DPP may cause the charge to be registered under the provisions of that law and, if the charge is so registered, a person who purchases, or otherwise acquires an interest in, the property after the registration is to be taken, for the purposes of paragraph (2)(e), to have notice of the charge at the time of the purchase or acquisition.

49L Registration of restraining orders

(1) Where:

(a) a restraining order applies to property of a particular kind; and

(b) the provisions of any law of the Commonwealth or of a State or Territory provide for the registration of title to, or charges over, property of that kind;

the authority responsible for administering those provisions may, on application by the DPP, record on the register kept under those provisions particulars of the restraining order.

(2) Where particulars of a restraining order are recorded under subsection (1), a person who later deals with the property is to be taken, for the purposes of section 49M, to have notice of the restraining order at the time of the dealing.

49M Contravention of restraining orders

(1) A person who intentionally contravenes a restraining order by disposing of, or otherwise dealing with, property that is subject to the restraining order commits an offence punishable, upon conviction, by imprisonment for a period not exceeding 5 years.

(2) Where:

(a) a restraining order is made against property; and

(b) the property is disposed of, or otherwise dealt with, in contravention of the restraining order; and

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(c) the disposition or dealing was either not for sufficient consideration or not in favour of a person who acted in good faith;

the DPP may apply to the court that made the restraining order for an order that the disposition or dealing be set aside.

(3) Where the DPP makes an application under subsection (2) in relation to a disposition or dealing, the court may make an order:

(a) setting the disposition or dealing aside as from the day on which it took place; or

(b) setting the disposition or dealing aside as from the day of the order under this subsection and declaring the respective rights of any persons who acquired interests in the property on or after the day on which the disposition or dealing took place and before the day of the order under this subsection.

49N Restraining orders: revocation

Where a court has made a restraining order against a person's property, the court may, on application made by the person, revoke the order if:

(a) where the order was made in reliance on the person's conviction of an offence or the charging, or proposed charging, of the person with an offence—the person gives security satisfactory to the court for the payment of any amount that may be specified in a recovery order against the person; or

(b) the person gives undertakings satisfactory to the court concerning the person's property.

49P When do restraining orders cease to have effect?

(1) A restraining order ceases to have effect if any of the following things happen:

(a) the defendant is acquitted of the offence, or the charge is withdrawn or otherwise disposed of without conviction and the defendant has not been charged with a related corruption offence before the acquittal, withdrawal or disposal;

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(b) the defendant is convicted of the offence, but does not receive a sentence that would support the making of an application for a superannuation order under subsection 45(1A);

(c) the Minister administering the *Crimes (Superannuation Benefits) Act 1989* refuses to authorise the DPP to apply for a superannuation order in respect of the defendant;

(d) the appropriate court refuses to make a recovery order against the defendant;

(e) such an order is made in respect of the defendant but is later satisfied or is taken to have been revoked;

(f) where the restraining order was made in reliance on the proposed charging of the person with an offence—the defendant is not charged with the offence or a related corruption offence before the end of the period of 48 hours after the order is made.

(2) Subject to this section, a restraining order ceases to have effect, if it has not already done so under subsection (1), at the end of the relevant period in relation to the order.

(3) If, within the relevant period in relation to a restraining order, an application is made under section 49Q for an extension of the period of effect of the restraining order and the court refuses the application after the end of the relevant period, the restraining order ceases to have effect when the court refuses the application.

(4) If, within the relevant period in relation to a restraining order, an application is made under section 49Q for an extension of the period of effect of the restraining order and the application is granted, the restraining order ceases to have effect at the time, or on the occurrence of the event, specified in an order made by the court under that section.

49Q Extension of period of effect of restraining orders

(1) The DPP may, before the end of the relevant period in relation to a restraining order made in reliance on a person's conviction of an

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offence or the charging, or proposed charging, of a person with an offence, apply to the court that made the restraining order for an extension of the period of effect of the order.

(2) Where, on an application for an extension of the period of effect of a restraining order, the court is satisfied:

(a) that a recovery order has been, or may still be, made against the person; and

(b) where the property concerned is the property of another person—an order under subsection 53A(1) has been, or may still be, made;

the court may:

(c) by order, extend the period of effect of the restraining order; and

(d) make such other order or orders as it thinks appropriate in relation to the operation of the restraining order.

(3) The DPP must give a person written notice of an application in relation to a restraining order in respect of the person's property.

49R Notice of applications

(1) A person who applies under section 49J for an ancillary order in relation to a restraining order must give written notice of the application to each other person who is entitled under subsection 49J(2) to make an application under section 49J in relation to the restraining order.

(2) A person who applies under section 49N for revocation of a restraining order must give written notice of the application to the DPP.

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Division 4—Miscellaneous

51 Person ceases to be an AFP employee: persons charged with corruption offences

(1) Where:

(a) a person is charged with an offence;

(b) the person ceases, for any reason, to be an AFP employee on or after the day on which the person is charged (whether because the period of the person's engagement ends, by operation of law or because of anything done by the person or the Commissioner);

then, if the Commissioner believes on reasonable grounds that the offence is a corruption offence, the Commissioner shall notify the person's superannuation authority in writing that the person's rights and entitlements under the relevant superannuation scheme are suspended.

(2) The Commissioner shall cause a copy of a notice to be given to the person concerned.

(3) Where the Commissioner notifies a superannuation authority that the rights and entitlements of a person are suspended:

(a) the person is entitled, on the day on which he or she ceases to be an AFP employee, to receive payment, if the person elects to do so, of an amount equal to the sum of the employee contributions paid under the scheme by the person (being contributions held in a fund under the scheme) plus the amount of interest on those contributions accrued under the scheme; and

(b) the person is not entitled to exercise any other right, or to receive any other benefit, under the scheme, or to receive an adjustment payment, unless:

(i) the person is acquitted of the offence or the charge is withdrawn or otherwise disposed of without the conviction of the person;

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(ii) the person is convicted of the offence, but does not receive a sentence that would support the making of an application for a superannuation order under subsection 45(1A);

(iii) the Minister administering the *Crimes (Superannuation Benefits) Act 1989* refuses to authorise the DPP to apply for a superannuation order in respect of the person;

(iv) the appropriate court refuses to make a superannuation order in respect of the person; or

(v) a superannuation order made in respect of the person is taken to have been revoked.

(4) Where anything mentioned in paragraph (3)(b) happens, the Commissioner shall, as soon as practicable, notify the relevant superannuation authority accordingly.

(5) To avoid doubt, for the purposes of paragraph (1)(b), a person does not cease to be an AFP employee in circumstances where the person completes a period of engagement under section 24 (the ***initial period***) and is re-engaged under that section for a further period starting immediately after the end of the initial period.

53A Court may lift corporate veil etc.

(1) Where an appropriate court makes a recovery order against a person, it may, on application by the DPP, if it thinks that particular property is subject to the effective control of the person, make an order declaring that the whole, or a specified part, of that property is available to satisfy the recovery order.

(2) Where a court declares that property is available to satisfy a recovery order:

(a) the recovery order may be enforced against the property as if the property were property of the person against whom the order is made; and

(b) a restraining order may be made in respect of the property as if the property were property of the person against whom the restructuring order is made.

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(3) Where the DPP applies for an order under subsection (1) that property is available to satisfy a recovery order against a person:
  (a) the DPP must give written notice of the application to the person and to any other person who the DPP has reason to believe may have an interest in the property; and
  (b) the person and any person who claims an interest in the property may appear and adduce evidence at the hearing of the application.

54 Amounts payable under section 46, 47, 47B or 51

(1) Where an amount is payable under an order made under subsection 46(3) in respect of employer contributions or benefits that are held in a fund (other than the Consolidated Revenue Fund), the amount is payable out of the fund by the person responsible for the administration of the fund.

(2) Where an amount is payable under an order made under subsection 46(3) in respect of employer contributions or benefits that have been paid to the Commonwealth, the Finance Minister is to make arrangements:
  (a) for the payment of the amount out of the Consolidated Revenue Fund; or
  (b) where it is not appropriate to make such a payment—for any other appropriate action to be taken;

and the order is to be taken to have been satisfied by the taking of any action that gives effect to the arrangements.

(3) An amount payable to a person under subsection 47(2) or (3) or 51(3) is payable:
  (a) if the relevant superannuation scheme is established by an Act—by the Commonwealth; and
  (b) in any other case—by the relevant superannuation authority out of the fund established under the relevant superannuation scheme.

(4) Where an amount mentioned in subsection (3) is payable by the Commonwealth, the amount is payable out of the fund established

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under the relevant Act or, if an amount equal to the employer contributions of the person has been paid to the Commonwealth, out of the Consolidated Revenue Fund.

(5) An amount payable to a person under section 47B is payable by the Commonwealth out of the Consolidated Revenue Fund.

(6) The Consolidated Revenue Fund is appropriated to the extent necessary to pay any amount that is payable under this section out of that Fund.

54A Multiple payments in respect of same employee contributions not allowed

(1) In spite of this Act and the Superannuation Benefits Act, where an amount has been paid to a person under subsection 47(2) or (3) or 51(3) of this Act in respect of employee contributions and interest on those contributions, the person is not entitled to payment of another amount under any of those subsections, or under subsection 21(4) or (5) of the Superannuation Benefits Act.

(2) In respect of this Act and the Superannuation Benefits Act, where an amount has been paid to a person under subsection 21(4) or (5) of the Superannuation Benefits Act in respect of employee contributions and interest on those contributions, the person is not entitled to payment of another amount under subsection 47(2) or (3) or 51(3) of this Act in respect of the same employee contributions and interest.

(3) In this section:

Superannuation Benefits Act means the *Crimes (Superannuation Benefits) Act 1989*.

55 Possible superannuation order not to be taken into account in sentencing

A court shall not, in sentencing a person convicted of an offence punishable by imprisonment for life or for a term longer than 12

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months, take into account the possibility that a superannuation order may be made.

56 Constitution of appropriate courts

Where an application for a superannuation order or restraining order is made to a court before which a person was convicted of a corruption offence:

(a) the application may be dealt with by the court; and

(b) any power in relation to the superannuation order or restraining order may be exercised by the court;

whether or not it is constituted in the same way in which it was constituted when the person was convicted of the offence.

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Part VI—Miscellaneous

60A Secrecy

(1) This section applies to a person who is, or was at any time:

(a) the Commissioner; or

(b) a Deputy Commissioner; or

(c) an AFP employee; or

(d) a special member; or

(da) a special protective service officer; or

(e) a person engaged under section 35; or

(f) a person performing functions under an agreement under section 69D.

(2) A person to whom this section applies must not, directly or indirectly:

(a) make a record of any prescribed information; or

(b) divulge or communicate any prescribed information to any other person;

except for:

(c) the purposes of this Act or the regulations; or

(d) the purposes of the *Law Enforcement Integrity Commissioner Act 2006* or regulations under that Act; or

(e) the purposes of the *Witness Protection Act 1994* or regulations under that Act; or

(ea) the purposes of the *Parliamentary Joint Committee on Law Enforcement Act 2010* or regulations under that Act; or

(f) the carrying out, performance or exercise of any of the person's duties, functions or powers under Acts or regulations mentioned in paragraphs (c), (d), (e) and (ea).

Penalty: Imprisonment for 2 years.

(2A) This section does not apply to:

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(a) a divulgence or communication of prescribed information that is authorised by the Commissioner under subsection (2B); or

(b) a divulgence or communication of personal information that is authorised by the Commissioner under subsection (2C).

(2B) The Commissioner may, if he or she is of the opinion that it is in the interests of the due administration of justice to do so, authorise a person to whom this section applies to divulge or communicate prescribed information that relates to the National Witness Protection Program established by the *Witness Protection Act 1994* to a person specified in the authorisation.

(2C) The Commissioner may authorise a person to whom this section applies to divulge or communicate an individual's personal information if the individual requests, or gives consent to, that divulgence or communication.

(2D) Subsection (2C) does not require the Commissioner to authorise a divulgence or communication of personal information that is otherwise required or authorised under this Act.

(3) In this section:

personal information has the same meaning as in the *Privacy Act 1988*.

prescribed information means information obtained by a person to whom this section applies:

(a) in the course of carrying out, performing or exercising any of the person's duties, functions or powers under:

(i) this Act or the regulations; or

(ii) the *Law Enforcement Integrity Commissioner Act 2006* or regulations under that Act; or

(iii) the *Witness Protection Act 1994* or regulations under that Act; or

(b) otherwise in the course of the person's service, employment or engagement under Acts or regulations mentioned in paragraph (a).

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Note: The *Privacy Act 1988* contains provisions relevant to the use and disclosure of information divulged or communicated under this Act.

61 Awards for bravery etc.

(1) Where an AFP appointee has, by his or her bravery or other conspicuous conduct or by his or her diligent service, merited a prescribed award, the Commissioner may confer the award on that person.

(1A) If the Commissioner is satisfied that a person (other than an AFP appointee) has, by his or her bravery, or other conspicuous conduct, in assisting the Australian Federal Police, merited a prescribed award, the Commissioner may confer the award on that person.

(2) An award shall be conferred on the basis of such criteria as are prescribed.

62 Dishonestly representing conferral of police awards

(1) A person commits an offence if the person dishonestly represents that a police award has been conferred on the person.

Penalty: Imprisonment for 6 months.

Police award

(2) For the purposes of this section, a ***police award*** is an award, commendation, citation, medal or other decoration (however described) that has been or may be conferred on the Commissioner or an AFP appointee for police services that are provided by the Commissioner or AFP appointee.

Dishonesty

(3) For the purposes of this section, ***dishonest*** means:
(a) dishonest according to the standards of ordinary people; and
(b) known by the defendant to be dishonest according to the standards of ordinary people.

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(4) In a prosecution for an offence against this section, the determination of dishonesty is a matter for the trier of fact.

63 Personation etc. of member or special member

(1) A person, not being a member or special member, shall not:

(b) wear or display any uniform or badge of a member or special member, any colourable imitation of such a uniform or badge, or any uniform or badge so closely resembling such a uniform or badge as to be likely to deceive;

(c) have in his or her possession any arms or ammunition, or any article of clothing, accoutrements or equipment, supplied to any member or special member.

Penalty: Imprisonment for 12 months.

(2) Paragraphs (1)(b) and (c) do 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*).

63A Personation etc. of protective service officer or special protective service officer

(1) A person, not being a protective service officer or a special protective service officer, must not:

(a) wear or display any uniform or badge of a protective service officer or special protective service officer, any colourable imitation of such a uniform or badge, or any uniform or badge so closely resembling such a uniform or badge as to be likely to deceive; or

(b) have in the person's possession any arms or ammunition, or any article of clothing, accoutrements or equipment, supplied to any protective service officer or special protective service officer.

Penalty: Imprisonment for 12 months.

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

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

63B Possession of documents etc.

(1) A person, not being a member, special member, protective service officer or special protective service officer, must not have in the person's possession any book or document issued by, or purporting to be issued by, the Australian Federal Police.

Penalty: Imprisonment for 12 months.

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

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

64 Assault etc.

The court convicting a person of an offence against section 147.1 or 149.1 of the *Criminal Code* that relates to a member, special member, protective service officer or special protective service officer may, order the offender to pay such compensation as the court thinks fit for any damage or injury caused by the offender to the uniform, clothing or accoutrements of the member, special member, protective service officer or special protective service officer concerned or for any medical or other expenses incurred in consequence of personal injury sustained by him or her by reason of the offence.

64A Members in uniform to wear identification numbers

(1) A member must, at all times when he or she is wearing his or her police uniform, wear his or her identification number clearly visible on the uniform.

Penalty: 5 penalty units.

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(1A) Subsection (1) is an offence of strict liability.

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

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that his or her identification number was not clearly visible on his or her uniform in consequence of:

(a) the act of another person (not being a member) done without the consent of the defendant; or

(b) an unintentional omission on the part of the defendant.

(3) The Commissioner shall take such steps as are necessary to enable members to whom subsection (1) applies to comply with that subsection.

64AAA Protective service officers in uniform to wear identification numbers

(1) A protective service officer must, at all times when he or she is wearing his or her protective service officer uniform, wear his or her identification number clearly visible on the uniform.

Penalty: 5 penalty units.

(2) Subsection (1) is an offence of strict liability.

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

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that his or her identification number was not clearly visible on the uniform as a consequence of:

(a) the act of another person (not being a protective service officer) done without the consent of the defendant; or

(b) an unintentional omission of the defendant.

Note: The defendant bears a legal burden in relation to the matter in subsection (3). See section 13.4 of the *Criminal Code*.

(4) The Commissioner must take such steps as are necessary to enable protective service officers to whom subsection (1) applies to comply with that subsection.

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64AA Suspended AFP employees who are members

If an AFP employee who is a member is suspended from duties under the regulations, the member must not, while the suspension is in force, exercise any power conferred on a member by this Act or any other law of the Commonwealth or of a Territory.

Penalty: Imprisonment for 2 years.

64AAB Suspended AFP employees who are protective service officers

If an AFP employee who is a protective service officer is suspended from duties under the regulations, the protective service officer must not, while the suspension is in force, exercise any power conferred on a protective service officer by this Act or any other law of the Commonwealth or of a Territory.

Penalty: Imprisonment for 2 years.

64B Liability for wrongful acts of members

(1) The Commonwealth is liable in respect of a tort committed by a member or a protective service officer in the performance or purported performance of his or her duties as such a member or a protective service officer in like manner as a person is liable in respect of a tort committed by his or her employee in the course of his or her employment, and shall, in respect of such a tort, be treated for all purposes as a joint tortfeasor with the member or the protective service officer.

(2) In a claim by the Commonwealth for damages in respect of a tort, an act or omission of a member or a protective service officer in the performance or purported performance of his or her duties as a member or a protective service officer may be relied on as constituting contributory negligence by the Commonwealth if the act or omission could have been so relied on if it had been done by an employee of the Commonwealth in the course of his or her employment.

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(3) The liability of the Commonwealth under subsection (1) does not extend to a liability to pay damages in the nature of punitive damages.

(4) Without limiting the application of subsection (1), the Commonwealth may:

(a) where proceedings have been instituted against a member or a protective service officer with respect to a tort committed by the member or the protective service officer in the performance or purported performance of his or her duties as a member or a protective service officer—as joint tortfeasor with the member or the protective service officer (whether or not the Commonwealth is a party to the proceedings):

(i) pay to the plaintiff, on behalf of the member or the protective service officer, the whole or a part of any damages or costs (not being damages in the nature of punitive damages) that the member or the protective service officer has been ordered by the Court in the proceedings to pay to the plaintiff; and

(ii) pay to the member or the protective service officer any costs incurred by him or her in the proceedings and not recovered from the plaintiff; or

(b) where a member or a protective service officer has entered into a settlement of a claim by another person that has, or might have, given rise to proceedings of a kind referred to in paragraph (a)—as joint tortfeasor with the member or the protective service officer (whether or not the Commonwealth is a party to the settlement), pay to that other person the whole or a part of the amount that, under the terms of the settlement, the member or the protective service officer is liable to pay to that other person.

(5) For the purposes of this section:

(a) an act or omission of a member in the capacity of a constable shall be deemed to have been done in the performance of his or her duties as a member; and

(b) a reference to a plaintiff includes a reference to a defendant counter-claiming; and

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(c) a reference to a member includes a reference to a special member; and

(d) a reference to a protective service officer includes a reference to a special protective service officer.

66 Protection of persons in respect of work reports

(1) An action or proceeding, civil or criminal, does not lie against a person in respect of any oral or written report made in good faith by the person for the purposes of this Act or the regulations, being a report about work done, or proposed to be done, by the Commissioner, a Deputy Commissioner, an AFP employee, a special member or a special protective service officer.

(2) A report is to be taken to have been made in good faith if the person who made it was not actuated by ill will to the Commissioner, Deputy Commissioner, AFP employee, special member or special protective service officer, as the case may be, or by any other improper motive.

(3) Subsection (1) does not apply unless:

(a) the person who made the report believed on reasonable grounds that it was the function or duty of the person to whom the report was made to receive it; and

(b) if the report contained matter that was false or misleading in a material respect—the person who made the report did not know, and could not with reasonable diligence have discovered, that the report contained such matter.

67 Annual reports

The annual report prepared by the Commissioner and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include particulars of:

(a) the AFP conduct issues that were dealt with under Part V of this Act during that period; and

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(b) the action that was taken, during that period, in relation to AFP conduct issues that were dealt with under Division 3 of Part V of this Act.

68 Proof of appointment, status of member etc.

Deputy Commissioner

(1) The Commissioner may, by writing signed by the Commissioner, certify that a specified person has been appointed as a Deputy Commissioner under subsection 17(1) and may also certify all or any of the following in relation to the person:

(a) that he or she entered into the undertaking mentioned in subsection 36(2) immediately after his or her appointment;

(b) that, on a specified date, he or she made and subscribed the oath or affirmation mentioned in the certificate before the Commissioner;

(c) that he or she is, on the date on which the certificate is signed, a Deputy Commissioner and has been such a Deputy Commissioner continuously since he or she was so appointed.

AFP employees who are members

(2) The Commissioner may, by writing signed by the Commissioner, certify that a specified person has been declared to be a member under section 40B and may also certify all or any of the following in relation to the person:

(a) that he or she entered into the undertaking mentioned in subsection 36(3) immediately after the declaration under section 40B;

(b) that, on a specified date, he or she made and subscribed the oath or affirmation mentioned in the certificate before the Commissioner or a specified person authorised by the Commissioner for the purposes of subsection 36(3);

(c) that he or she is, on the date on which the certificate is signed, a member and has been such a member continuously since the declaration under section 40B;

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(d) that a declaration is in force, or was in force on a specified date or during a specified period, under subsection 5(3) or 9(2A) or (2B) in relation to the member (declarations about rank).

Special members

(3) The Commissioner may, by writing signed by the Commissioner, certify that a specified person has been appointed as a special member under section 40E and may also certify all or any of the following in relation to the person:

(a) that he or she entered into the undertaking mentioned in subsection 36(4) immediately after his or her appointment;

(b) that, on a specified date, he or she made and subscribed the oath or affirmation mentioned in the certificate before the Commissioner or a specified person authorised by the Commissioner for the purposes of subsection 36(4);

(c) that he or she is, on the date on which the certificate is signed, a special member and has been such a special member continuously since he or she was so appointed.

Certification that a person is or is not a member or special member

(4) The Commissioner may, by writing signed by the Commissioner, certify that a specified person:

(a) is, or is not, a member or special member; or

(b) was, or was not, on a specified day, or during a specified period, a member or special member.

AFP employees who are protective service officers

(4A) The Commissioner may, by writing signed by the Commissioner, certify that a specified person has been declared to be a protective service officer under section 40EA and may also certify all or any of the following in relation to the person:

(a) that he or she entered into the undertaking mentioned in subsection 36(4A) immediately after the declaration under section 40EA;

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(b) that, on a specified date, he or she made and subscribed the oath or affirmation mentioned in the certificate before the Commissioner or a specified person authorised by the Commissioner for the purposes of subsection 36(4A);

(c) that he or she is, on the date on which the certificate is signed, a protective service officer and has been such a protective service officer continuously since the declaration under section 40EA.

Special protective service officers

(4B) The Commissioner may, by writing signed by the Commissioner, certify that a specified person has been appointed as a special protective service officer under section 40EC and may also certify all or any of the following in relation to the person:

(a) that he or she entered into the undertaking mentioned in subsection 36(4B) immediately after his or her appointment;

(b) that, on a specified date, he or she made and subscribed the oath or affirmation mentioned in the certificate before the Commissioner or a specified person authorised by the Commissioner for the purposes of subsection 36(4B);

(c) that he or she is, on the date on which the certificate is signed, a special member and has been such a special member continuously since he or she was so appointed.

Certification that a person is or is not a protective service officer or special protective service officer

(4C) The Commissioner may, by writing signed by the Commissioner, certify that a specified person:

(a) is, or is not, a protective service officer or a special protective service officer; or

(b) was, or was not, on a specified day, or during a specified period, a protective service officer or a special protective service officer.

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Conclusive evidence of certificate under this section

(5) A document purporting to be a certificate given under this section is, unless the contrary is established, to be presumed to have been duly given and be conclusive evidence of the matters stated in the certificate.

68A Certificates in relation to transferred PSOs

(1) This section applies in relation to a person who is a transferred PSO, instead of subsection 68(4A).

(2) The Commissioner may, by writing signed by the Commissioner, certify that a specified person is a transferred PSO.

(3) The Commissioner may also certify either or both of the following in relation to the person:

(a) that the person made and subscribed an oath or affirmation under section 10 of the *Australian Protective Service Act 1987*;

(b) that the person is, on the date on which the certificate is signed, a protective service officer and has been such a protective service officer continuously since being appointed under section 9 of the *Australian Protective Service Act 1987*.

(4) Unless the contrary is proved, a document purporting to be a certificate given under this section is taken to be such a certificate and to have been duly given.

(5) A certificate under this section is prima facie evidence of the matters stated in the certificate.

(6) In this section:

APS transferee means a person who, immediately before the transfer time, was an employee assisting the Commissioner of the Australian Federal Police under subsection 5(2) of the *Australian Protective Service Act 1987*.

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transferred PSO means an APS transferee who, immediately before the transfer time, was a protective service officer within the meaning of the *Australian Protective Service Act 1987*.

transfer time means the time specified by the Australian Public Service Commissioner in a determination under paragraph 72(1)(b) of the *Public Service Act 1999* as the time at which the APS transferees become employees of the Australian Federal Police.

69 Prohibition of patronage and favouritism

The Commissioner, or a delegate of the Commissioner, in exercising powers under this Act:

(a) in relation to the engagement of AFP employees; or

(b) otherwise in relation to AFP employees;

must do so without patronage or favouritism.

69A Persons engaged overseas as employees

(1) The Commissioner, on behalf of the Commonwealth, may engage persons overseas to perform duties overseas as employees.

(2) The Commissioner, on behalf of the Commonwealth, has all the rights, duties and powers of an employer in respect of persons engaged under this section.

Note: The Commissioner may, under section 35A, authorise special payments to persons engaged under this section.

(3) This section does not, by implication, limit any other power of the Commissioner to engage persons to work overseas.

69B Limited operation of Fair Work Act

(1) The *Fair Work Act 2009* (other than Part 3-1 or Division 9 of Part 3-3) does not apply in relation to any of the following matters:

(a) a matter covered by any of Divisions 2 to 8 of Part IV or any action taken under any of those Divisions;

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(b) a matter covered by Part V or any action (other than action to terminate employment under section 28 of this Act to which the *Fair Work Act 2009* would otherwise apply) taken in relation to a matter covered by that Part;

(c) any entitlement of AFP employees to adjustment payments;

(d) any other matter prescribed by the regulations.

(2) The *Fair Work Act 2009* (other than Parts 3-1, 3-2, 6-1 and 6-4, and Division 2 of Part 3-6) does not apply in relation to the termination of employment of AFP employees.

(3) To avoid doubt, this section does not imply that the *Fair Work Act 2009* applies to any matter covered by this Act:

(a) that is not mentioned in this section; and

(b) to which the *Fair Work Act 2009* would not otherwise apply.

69C Delegation

(1) The Commissioner may, in writing, delegate to a Deputy Commissioner, an AFP employee or a special member, all or any of the Commissioner's powers, functions or duties under this Act (other than the Commissioner's power under section 35A (payments in special circumstances)).

(2) The Commissioner may, in writing, delegate to a senior executive AFP employee the Commissioner's power under section 35A (payments in special circumstances).

(3) The Commissioner may, in writing, delegate to a Deputy Commissioner or a senior executive AFP employee all or any of the Commissioner's powers, functions or duties as a proceeds of crime authority under the *Proceeds of Crime Act 2002* or any other Act.

Note: As a proceeds of crime authority, the Commissioner may conduct proceedings under the *Proceeds of Crime Act 2002*, and has related powers, functions and duties under that Act and other Acts (see the definitions of ***proceeds of crime authority*** and ***responsible authority*** in section 338 of that Act).

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(4) If:

(a) the Commissioner has, under subsection (3), delegated one or more powers, functions or duties to a senior executive AFP employee; and

(b) an AFP employee is acting in, or performing the duties of, the position held or occupied by the senior executive AFP employee;

the Commissioner is taken to have delegated the powers, functions or duties mentioned in paragraph (a) to the AFP employee mentioned in paragraph (b).

69D Secondment of persons to assist the Australian Federal Police

(1) The Commissioner may, by written agreement with a body or organisation, whether within or outside Australia, arrange for a person who:

(a) is employed by that body or organisation; and

(b) has suitable qualifications and experience;

to assist the Australian Federal Police in the performance of its functions by performing the functions specified in the agreement.

(2) The terms and conditions (including remuneration and allowances) applicable to a person performing functions under an agreement are those specified in the agreement.

Note: The Commissioner may, under section 35A, authorise special payments to a person performing functions under an agreement.

69E Commissioner may charge for certain protective services

(1) If services are provided by a protective service officer or a special protective service officer at the request of a person other than:

(a) a person holding office under the Commonwealth; or

(b) a Commonwealth authority;

the Commissioner may charge for the services.

(2) A charge made under subsection (1) must be an amount reasonably related to the cost of providing the services.

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(3) In this section:

Commonwealth authority means:

(a) a body, whether incorporated or unincorporated, established for a public purpose:

(i) by or under a law of the Commonwealth or a law of a Territory other than the Australian Capital Territory or the Northern Territory; or

(ii) by the Governor-General or a Minister; or

(b) an incorporated company in which the Commonwealth or a body described in paragraph (a) has a controlling interest; or

(c) any other agency or instrumentality of the Commonwealth.

70 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 securing the discipline and good government of the Australian Federal Police, or for otherwise carrying out or giving effect to this Act, and, in particular, making provision for and in relation to:

(a) the return to the Commissioner by a person who has ceased to be an AFP employee, a special member or a special protective service officer of property (including accoutrements and clothing) supplied to him or her for the purposes of his or her service as an AFP employee, a special member or a special protective service officer or in his or her custody by virtue of that service, and the recovery by the Commissioner of any such property not so returned, including the issue of search warrants by Magistrates for purposes of such recovery and the execution of such warrants; and

(aa) the disposal of unclaimed property that has lawfully come into the possession of an AFP employee, a special member or a special protective service officer; and

(b) penalties, not exceeding a fine of 5 penalty units, for offences against the regulations; and

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(c) the police services that may be rendered by the Australian Federal Police at the request of, or under an agreement with, a member of the public or a body corporate or other organisation (other than an authority of the Commonwealth), and the payment and recovery of such fees as are prescribed in relation to rendering those services; and

(d) the payment of such fees as are prescribed in relation to police services rendered by the Australian Federal Police in relation to a prescribed authority of the Commonwealth, where rendering those services is a function of the Australian Federal Police; and

(e) requiring AFP employees who are not members to make and subscribe oaths or affirmations of secrecy in the prescribed form in relation to the matters coming to their knowledge in the course of their employment as such employees; and

(f) the making of deductions from the salary of the Commissioner, a Deputy Commissioner or an AFP employee in order to satisfy a judgment debt (including interest on a judgment debt); and

(g) enabling an AFP employee to resign from the Australian Federal Police for the purpose of becoming a candidate at an election of a member or members of the Parliament of the Commonwealth, the Parliament of a State, the Legislative Assembly for the Australian Capital Territory or the Legislative Assembly of the Northern Territory; and

(h) the re-instatement of persons as AFP employees; and

(i) compliance by AFP appointees with AFP professional standards; and

(j) the storage, handling and confidentiality of any statement given under section 40L and the use which may be made of any such statement, including any limitations on such use; and

(k) AFP employment decisions and the values on which such decisions must be based, including:

(i) impartiality and professionalism; and

(ii) merit; and

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(iii) freedom from discrimination; and
(iv) openness and accountability; and
(v) fairness; and
(vi) equity in employment; and
(vii) effectiveness; and

(l) the review of AFP employment decisions.

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Part VII—Transitional

71 Interpretation of Part VII

In this Part, unless the contrary intention appears:

(a) a reference to the commencing date shall be read as a reference to the date fixed under subsection 2(2).

(b) a reference to an existing Police Force shall be read as a reference to the Commonwealth Police Force or the Police Force of the Australian Capital Territory; and

(c) a reference to a member of an existing Police Force shall be read as a reference to:

(i) a member of the Commonwealth Police Force referred to in paragraph 4(1)(a) of the *Commonwealth Police Act 1957*;

(ii) a person deemed to be a Commonwealth Police Officer by virtue of subsection 4(2) of that Act; or

(iii) a member, other than a special constable, of the Police Force of the Australian Capital Territory.

75 Recognition of previous service for certain purposes

For the purposes of this Act, the *Superannuation Act 1976*, the *Maternity Leave (Commonwealth Employees) Act 1973* and the *Long Service Leave (Commonwealth Employees) Act 1976*, service of a person as a member of the Australian Federal Police shall be deemed to include service of that person as a member of an existing Police Force.

77 Accrued leave

A person appointed in pursuance of section 72 of this Act, as in force on the commencing date, retains the rights, if any, in respect of:

(a) recreation leave; and

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(b) leave on the ground of illness;

that had accrued to him or her as a member of an existing Police Force or as a member of the Australian Public Service immediately before the commencing date.

80 Powers and duties in relation to Commonwealth places

Until an arrangement is made between the Commissioner and the Commissioner of Police (however designated) of a State for the purposes of subsection 8(2), members of the Australian Federal Police may, under this Act, exercise and perform, in relation to a Commonwealth place in that State within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*, powers and duties equivalent to the powers and duties that were, before the commencing date, exercised and performed in relation to those places under the *Commonwealth Police Act 1957*.

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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

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

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

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

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

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

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

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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 abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

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)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

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)

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
Australian Federal Police Act 1979	58, 1979	15 June 1979	s 1, 2, 4, 6, 17–22, 28 and 70: 15 June 1979 (s 2(1)) Remainder: 19 Oct 1979 (s 2(2) and gaz 1979, No S206)	
Australian Federal Police (Consequential Amendments) Act 1979	155, 1979	28 Nov 1979	Sch: 19 Oct 1979 (s 2(1))	—
Australian Federal Police Amendment Act 1980	69, 1980	28 May 1980	28 May 1980 (s 2)	—
Australian Federal Police Amendment Act 1981	22, 1981	9 Apr 1981	1 May 1982 (s 2)	s 3(2)
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 26–30: 20 Oct 1982 (s 2(16))	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	39, 1983	20 June 1983	Sch 1 (amdt to s 36 Australian Federal Police Act 1979): repealed before commencing (s 2(2))	—
as amended by				
Australian Federal Police Amendment Act 1984	117, 1984	18 Oct 1984	s 19(10): 20 Oct 1984 (s 2(2) and gaz 1984, No S419)	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act (No. 2) 1983	91, 1983	22 Nov 1983	s 6(2): 20 Dec 1983 (s 2(1)) Sch 1 (amdt to s 19, 25, 26, 26A, 36, 38, 39 Australian Federal Police Act 1979): repealed before commencing (s 2(5))	s 6(2)
as amended by				
Australian Federal Police Amendment Act 1984	117, 1984	18 Oct 1984	s 19(11): 20 Oct 1984 (s 2(2) and gaz 1984, No S419)	—
Australian Federal Police Amendment Act 1985	121, 1985	28 Oct 1985	s 24 and 25: 28 Oct 1985 (s 2)	—
Australian Federal Police Amendment Act 1984	117, 1984	18 Oct 1984	s 3–19(1)-(9), (12): 20 Oct 1984 (s 2(2) and gaz 1984, No S419) s 9: 18 Oct 1984 (s 2(1))	s 19(1)–(9) and (12)
Australian Federal Police Amendment Act 1985	121, 1985	28 Oct 1985	s 4–20: 28 Oct 1985 (s 2)	s 19 and 20
Australian Federal Police Amendment Act 1986	35, 1986	24 June 1986	s 3: 1 Dec 1986 (s 2(2) and gaz 1986, No S577) s 5, 9(1) and 10–12: 29 May 1988 (s 2(3) and gaz 1988, No S149) s 9(2): 28 Oct 1985 (s 2(4)) Remainder: 24 June 1986 (s 2(1))	s 6(2), (3), 7(2) and (3)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act 1988	38, 1988	3 June 1988	s 5(1) and Sch 1: 3 June 1988 (s 2(1))	s 5(1)
Industrial Relations (Consequential Provisions) Act 1988	87, 1988	8 Nov 1988	s 7(5), 12, 24, 87 and Sch 2: 1 Mar 1989 (s 2(2))	s 7(5), 12, 24 and 87
A.C.T. Self-Government (Consequential Provisions) Act 1988	109, 1988	6 Dec 1989	s 5 and Sch 5 (amdt to s 8(1)(a), 8(1A), (1B) Australian Federal Police Act 1979): 11 May 1989 (s 2(3) and gaz 1989, No S164) Sch 5 (amdt to s 40(1)(e) Australian Federal Police Act 1979): 7 Dec 1988 (s 2(3) and gaz 1988, No S374)	s 5
Law and Justice Legislation Amendment Act 1988	120, 1988	14 Dec 1988	s 18 and 19: 14 Dec 1988 (s 2(1)) s 20: 21 Dec 1989 (s 2(9) and gaz 1989, No S384)	s 19(2)
Australian Federal Police Legislation Amendment Act 1989	71, 1989	21 June 1989	s 4–6, 8–14 and 16–18: 1 July 1989 (s 2(2) and gaz 1989, No S222) s 7 and 15: 4 Dec 1989 (s 2(2) and gaz 1989, No S373)	—
Australian Federal Police Amendment Act 1989	147, 1989	27 Nov 1989	s 21: 21 Dec 1989 (s 2(2)) Remainder: 4 Dec 1989 (s 2(1))	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Federal Police Legislation Amendment Act (No. 2)1989	153, 1989	17 Dec 1989	s 4–10, 12–37 and 39–60: 1 Jan 1990 (s 2(4) and gaz 1989, No S397) s 11: 1 July 1991 (s 2(2)) s 38: 1 Jan 1991 (s 2(3))	s 4 and 53–60
as amended by				
Crimes Legislation Amendment Act 1991	28, 1991	4 Mar 1991	Sch 2: 4 Mar 1991 (s 2(1))	—
Law and Justice Legislation Amendment Act 1989	11, 1990	17 Jan 1990	s 4 and 5: 14 Feb 1990 (s 2(1))	s 5(2)
Crimes Legislation Amendment Act 1991	28, 1991	4 Mar 1991	s 4–19: 4 Mar 1991 (s 2(1))	—
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	s 31(2) and Sch: 10 Dec 1991 (s 2(3) and gaz 1991, No S332)	s 31(2)
as amended by				
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 3 (item 31): 27 June 1991 (s 2(3))	—
Crimes Legislation Amendment Act (No. 2) 1991	123, 1991	23 Aug 1991	s 4: 23 Aug 1991 (s 2(1)) s 5–10: 20 Sept 1991 (s 2(2))	s 6(2), 9 and 10(2)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 1992	94, 1992	30 June 1992	s 5: 30 June 1992 (s 2(1)) Sch: 1 July 1990 (s 2(2))	s 5
Crimes Legislation Amendment Act 1992	164, 1992	11 Dec 1992	Sch 1: 8 Jan 1993 (s 2(1))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Qantas Sale Act 1992	196, 1992	21 Dec 1992	Sch (Pt 1): 10 Mar 1993 (s 2(2), (3)(a) and gaz 1993, No GN17) Sch (Pt 5): 30 Aug 1995 (s 2(2), (3)(c) and gaz 1995, No S324)	—
as amended by				
Qantas Sale Amendment Act 1993	60, 1993	3 Nov 1993	s 4: 10 Mar 1993 (s 2)	—
Qantas Sale Amendment Act 1994	168, 1994	16 Dec 1994	Sch (item 17): 16 Dec 1994 (s 2(1))	—
Witness Protection Act 1994	124, 1994	18 Oct 1994	s 29 and Sch: 18 Apr 1995 (s 2(2))	s 29
Crimes and Other Legislation Amendment Act 1994	182, 1994	19 Dec 1994	Sch: 16 Jan 1995 (s 2(4))	—
Australian Federal Police Amendment Act 1996	27, 1996	8 July 1996	5 Aug 1996	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 5 (items 22–25): 25 Oct 1996 (s 2(1))	—
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Sch 19 (items 5, 6): 25 Nov 1996 (s 2(1))	—
Crimes and Other Legislation Amendment Act 1997	20, 1997	7 Apr 1997	Sch 1 (items 1–8): 7 Apr 1997 (s 2(1))	—
Telecommunications (Interception) and Listening Device Amendment Act 1997	160, 1997	11 Nov 1997	s 3: 11 Nov 1997 (s 2(1)) Sch 2: 1 Feb 1998 (s 2(2)(b) and gaz 1998, No GN3)	s 3

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Telecommunications (Interception) Amendment Act 1999	151, 1999	11 Nov 1999	Sch 2: 11 Nov 1999 (s 2)	—
Financial Sector Reform (Consequential Amendments) Act 1998	48, 1998	29 June 1998	Sch 1 (items 7–9): repealed before commencing (s 2(3)(a))	—
as amended by				
Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999	44, 1999	17 June 1999	Sch 6 (items 15, 16): 17 June 1999 (s 2(1))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 170, 171): 5 Dec 1999 (s 2(1), (2))	—
Australian Federal Police Legislation Amendment Act 2000	9, 2000	7 Mar 2000	Sch 1 and Sch 3 (items 1–19, 34, 35): 2 July 2000 (s 2(1) and gaz 2000, No S328)	Sch 3 (items 1–19, 34, 35)
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 34-39, 418, 419): 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)
Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001	24, 2001	6 Apr 2001	s 4(1), (2) and Sch 2: 24 May 2001 (s 2(1(a))	s 4(1) and (2)
Measures to Combat Serious and Organised Crime Act 2001	136, 2001	1 Oct 2001	Sch 5 (items 1–7): 29 Oct 2001 (s 2(5))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002	86, 2002	11 Oct 2002	Sch 6 (item 2): 1 Jan 2003 (s 2(1) item 5)	—
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Sch 2 (item 1): 18 Apr 1995 (s 2(1) item 5)	—
Australian Federal Police and Other Legislation Amendment Act 2004	64, 2004	22 June 2004	s 4: 22 June 2004 (s 2(1) item 1) Sch 1 (items 1–8, 10–60): 1 July 2004 (s 2(1) items 2, 3, 5) Sch 1 (item 9): 10 Mar 2005 (s 2(1) item 4) Sch 3 (items 1A–3C): 22 Dec 2004 (s 2(1) item 14)	s 4
Surveillance Devices Act 2004	152, 2004	15 Dec 2004	Sch 1 (items 1–3): 15 Dec 2004 (s 2)	Sch 1 (items 2, 3)
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Sch 1 (items 89, 90, 496): 22 Feb 2005 (s 2(1) items 1, 2, 10)	s 4 and Sch 1 (item 496)
Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005	129, 2005	8 Nov 2005	Sch 4: 8 Nov 2005 (s 2(1) item 4)	—
Statute Law Revision Act 2006	9, 2006	23 Mar 2006	Sch 1 (items 2, 3): 23 Mar 2006 (s 2(1) item 3)	—
Law Enforcement (AFP Professional Standards and Related Measures) Act 2006	84, 2006	30 June 2006	Sch 1, Sch 3 (items 3, 6–24), Sch 4 and Sch 5: 30 Dec 2006 (s 2(1) items 2, 5)	Sch 1 (item 30) and Sch 5 (item 8)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006	86, 2006	30 June 2006	Sch 1 (items 4, 5): 30 Dec 2006 (s 2(1) item 2)	—
Law and Justice Legislation Amendment (Marking of Plastic Explosives) Act 2007	3, 2007	19 Feb 2007	Sch 3 (item 1): 25 Aug 2007 (s 2(1) item 2)	—
Non-Proliferation Legislation Amendment Act 2007	50, 2007	10 Apr 2007	Sch 1 (item 1): 11 Apr 2007 (s 2(1) item 2)	—
Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007	128, 2007	17 Aug 2007	Sch 2 (items 34, 35): 18 Aug 2007 (s 2(1) item 3)	Sch 2 (item 35)
Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008	8, 2008	20 Mar 2008	Sch 1 (item 263): 28 Mar 2008 (s 2(1) item 2)	—
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Sch 1 (items 23–28): 23 June 2008 (s 2(1) item 2)	—
Crimes Legislation Amendment (Miscellaneous Matters) Act 2008	70, 2008	1 July 2008	Sch 1 (item 1): 30 Dec 2006 (s 2(1) item 2)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Sch 2 (items 9, 10): 10 Dec 2008 (s 2(1) item 5)	Sch 2 (item 10)
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Sch 5 (items 8–16): 1 July 2009 (s 2(1) item 11)	—
National Security Legislation Amendment Act 2010	127, 2010	24 Nov 2010	Sch 10 (items 8, 9): 25 Nov 2010 (s 2(1) item 16)	—
Aviation Crimes and Policing Legislation Amendment Act 2011	1, 2011	2 Mar 2011	Sch 2 (item 1): 30 Mar 2011 (s 2(1) item 2)	—
Crimes Legislation Amendment Act 2011	2, 2011	2 Mar 2011	Sch 4: 2 Mar 2011 (s 2(1) item 4)	Sch 4 (item 12)
Law and Justice Legislation Amendment (Identity Crimes and Other Measures) Act 2011	3, 2011	2 Mar 2011	Sch 2 (item 21), Sch 5 and Sch 7 (item 1): 3 Mar 2011 (s 2(1) item 4)	Sch 5 (item 21)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 5 (items 22, 23) and Sch 7 (item 18): 19 Apr 2011 (s 2(1) items 13, 18)	—
Defence Legislation Amendment (Security of Defence Premises) Act 2011	19, 2011	12 Apr 2011	Sch 1 (item 4): 12 Oct 2011 (s 2(1) item 2)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 151–153) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Sch 1 (items 15–17): 1 July 2011 (s 2(1) item 2)	—
Crimes Legislation Amendment Act (No. 2) 2011	174, 2011	5 Dec 2011	Sch 2 (items 1, 2): 1 Jan 2012 (s 2(1) item 3)	Sch 2 (item 2)
Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Act 2012	167, 2012	28 Nov 2012	Sch 3 (items 10, 11, 14): 29 Nov 2012 (s 2(1) item 7)	Sch 3 (item 14)
Public Service Amendment Act 2013	2, 2013	14 Feb 2013	Sch 3 (items 1, 2): 1 July 2013 (s 2(1) item 2)	—
Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Act 2013	74, 2013	28 June 2013	Sch 6 (items 1–4): 29 June 2013 (s 2(1) item 7)	Sch 6 (item 2)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 6 (items 16, 17), Sch 7 (items 232–234) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 66, 67): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
as amended by				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2 (items 1–3): 24 Mar 2016 (s 2(1) item 2)	—
Crimes Legislation Amendment (Powers, Offences and Other Measures) Act 2015	153, 2015	26 Nov 2015	Sch 14 (items 5, 6): 27 Nov 2015 (s 2(1) item 2)	Sch 14 (item 6)
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 23): 10 Mar 2016 (s 2(1) item 6)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Home Affairs and Integrity Agencies Legislation Amendment Act 2018	31, 2018	9 May 2018	Sch 2 (items 42–49, 284): 11 May 2018 (s 2(1) items 3, 7)	Sch 2 (item 284)
Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Act 2018	34, 2018	22 May 2018	Sch 8 (items 1–19): 23 July 2018 (s 2(1) item 9) Sch 8 (items 20, 21): 23 May 2018 (s 2(1) item 10)	Sch 8 (item 21)
National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018	67, 2018	29 June 2018	Sch 1 (items 31–34): 30 June 2018 (s 2(1) item 2) Sch 2 (items 13, 14): 29 Dec 2018 (s 2(1) item 3)	—
Crimes Legislation Amendment (Powers, Offences and Other Measures) Act 2018	75, 2018	24 Aug 2018	Sch 1: 25 Aug 2018 (s 2(1) item 1)	—
Crimes Legislation Amendment (Police Powers at Airports) Act 2019	89, 2019	28 Oct 2019	Sch 1 (item 1): 28 Apr 2020 (s 2(1) item 1)	—
Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Act 2020	133, 2020	17 Dec 2020	Sch 1 (item 127): 18 Dec 2020 (s 2(1) item 4)	—

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Endnote 3—Legislation history

Number and year	FRLI registration	Commencement	Application, saving and transitional provisions
50, 2006	17 Mar 2006 (F2006L00820)	Sch 31: 27 Mar 2006 (r 2(b))	—
as amended by			
119, 2006	4 June 2006 (F2006L01673)	Sch1 (item 3): 5 June 2006 (r 2)	—

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Endnote 4—Amendment history

Provision affected	How affected
Part I	
s. 3A	ad. No. 9, 2000
	am. No. 64, 2004; No. 84, 2006
s. 4	am. No. 155, 1979; No. 117, 1984; Nos. 71 and 153, 1989; Nos. 94 and 196, 1992; No. 9, 2000; No. 64, 2004; No. 129, 2005; SLI 2006 No. 50; No. 84, 2006; Nos. 3 and 50, 2007; No. 54, 2009; Nos. 3, 5, 19 and 58, 2011; No 62, 2014; No 67, 2018; No 75, 2018; No 89, 2019
	ed C58
s. 4AA	ad. No. 64, 2004
	am. No. 3, 2011
s. 4A	ad. No. 9, 2000
s. 5	am. No. 155, 1979; No. 9, 2000
s. 5A	ad. No. 147, 1989
s. 5B	ad. No. 24, 2001
Part II	
Heading to Part II	rs. No. 9, 2000
Division 1	
Heading to Div. 1 of Part II	ad. No. 11, 1990
	rs. No. 9, 2000; No. 64, 2004
s. 6	am. No. 117, 1984; No. 153, 1989
	rs. No. 9, 2000
	am. No. 64, 2004; No 62, 2014
s. 7	rep. No. 117, 1984
s. 8	am No 109, 1988; No 71, 1989; No 153, 1989; No 28, 1991; No 123, 1991; No 124, 1994; No 86, 2002; No 41, 2003; No 64, 2004; No 129, 2005; No 74, 2013; No 59, 2015; No 75, 2018
s. 8A	ad. No. 64, 2004
Heading to s. 9	rs. No. 9, 2000

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Endnote 4—Amendment history

Provision affected	How affected
s. 9	am. No. 117, 1984; No. 35, 1986; No. 120, 1988; No. 153, 1989; No. 28, 1991; No. 9, 2000; No. 64, 2004; No. 128, 2007
s. 10	rep. No. 117, 1984
	ad. No. 1, 2011
s. 12	am. No. 153, 1989; No. 43, 1996; No. 9, 2000
s 12A	ad No 35, 1986
	am No 64, 2004
	ed C62
Div. 2 of Part II	ad. No. 11, 1990
	rep. No. 152, 2004
s. 12B	ad. No. 11, 1990
	am. No. 160, 1997; No. 137, 2000
	rep. No. 152, 2004
ss. 12C, 12D	ad. No. 11, 1990
	rep. No. 152, 2004
s. 12DA	ad. No. 160, 1997
	rep. No. 152, 2004
s. 12E	ad. No. 11, 1990
	am. No. 9, 2000
	rep. No. 152, 2004
s. 12F	ad. No. 11, 1990
	rep. No. 152, 2004
Subheads. to s. 12G(1)	ad. No. 136, 2001
(2), (4), (6) and (8)–(11)	rep. No. 152, 2004
ss. 12G, 12H	ad. No. 11, 1990
	am. No. 160, 1997; No. 136, 2001
	rep. No. 152, 2004
ss. 12J, 12K	ad. No. 11, 1990
	rep. No. 152, 2004
s. 12L	ad. No. 11, 1990
	am. No. 164, 1992

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Provision affected	How affected
	rep. No. 152, 2004
Division 3	
Div. 3 of Part II	ad. No. 64, 2004
ss. 14A–14G	ad. No. 64, 2004
Division 4	
Div. 4 of Part II	ad. No. 64, 2004
ss. 14H–14N	ad. No. 64, 2004
Part III	
Heading to Part III	ad. No. 9, 2000
Part III	rep. No. 9, 2000
s. 13	am. No. 43, 1996
	rep. No. 9, 2000
s. 14	am. No. 117, 1984; No. 43, 1996
	rep. No. 9, 2000
s. 15	am. No. 117, 1984; No. 121, 1985; Nos. 71 and 153, 1989
	rs. No. 153, 1989
	rep. No. 9, 2000
s. 16	am. No. 121, 1985
	rep. No. 153, 1989
s. 16A	ad. No. 121, 1985
	rep. No. 9, 2000
Division 1	
Heading to s. 17	am. No. 9, 2000
s. 17	am. Nos. 71 and 153, 1989; No. 28, 1991; No. 43, 1996; No. 9, 2000; No. 84, 2006
s. 18	am. Nos. 27 and 43, 1996; No. 9, 2000; No. 46, 2011
Note to s. 18(1)	ad. No. 46, 2011
s. 19	am. No. 80, 1982; No. 121, 1985; No. 28, 1991; Nos. 27 and 43, 1996; No. 9, 2000
s. 20	am. No. 153, 1989; No. 28, 1991; No. 43, 1996; No. 9, 2000
Note to s. 20(2A)	ad. No. 2, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s. 21	am. Nos. 28 and 122, 1991; No. 146, 1999
s. 22	am. No. 28, 1991; No. 122, 1991 (as am. by No. 43, 1996); No. 43, 1996
Division 2	
Div. 2 of Part III	ad. No. 9, 2000
Subdivision A	
s. 23	am. No. 153, 1989
	rs. No. 9, 2000
s. 24	am. No. 121, 1985
	rs. No. 120, 1988; No. 153, 1989; No. 9, 2000
s. 25	rs. No. 117, 1984
	am. No. 121, 1985; No. 71, 1989; Nos. 27 and 43, 1996
	rs. No. 9, 2000
s. 25A	ad. No. 71, 1989
	rs. No. 153, 1989
	rep. No. 9, 2000
ss. 25B, 25C	ad. No. 71, 1989
	rep. No. 153, 1989
s. 26	rs. No. 117, 1984
	am. No. 121, 1985; No. 71, 1989; No. 43, 1996
	rs. No. 9, 2000
s. 26A	ad. No. 69, 1980
	am. No. 80, 1982; No. 117, 1984; No. 87, 1988; No. 43, 1996
	rep. No. 9, 2000
s. 26B	ad. No. 153, 1989
	rep. No. 9, 2000
s. 26BA	ad. No. 28, 1991
	rep. No. 9, 2000
s. 26C	ad. No. 153, 1989
	rep. No. 9, 2000
s. 26D	ad. No. 153, 1989

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Provision affected	How affected
	am. No. 28, 1991
	rep. No. 9, 2000
s. 26E	ad. No. 153, 1989
	am. No. 123, 1991; No. 27, 1996
	rep. No. 9, 2000
s. 26F	ad. No. 27, 1996
	am. No. 60, 1996
	rep. No. 9, 2000
Subdivision B	
s. 27	am. No. 117, 1984; No. 43, 1996
	rs. No. 9, 2000; SLI 2006 No. 50
	am. No. 8, 2008; No. 54, 2009
Note to s. 27(1)	ad. No. 2, 2011
Note to s. 27(4)	am. No. 54, 2009
Subdivision C	
s. 28	rs. No. 80, 1982
	am. No. 117, 1984; No. 153, 1989; No. 28, 1991; No. 43, 1996
	rs. No. 9, 2000
Note to s. 28	am. No. 54, 2009
s. 29	am. No. 121, 1985; No. 35, 1986; No. 87, 1988; Nos. 71 and 153, 1989
	rep. No. 9, 2000
Subdivision D	
s. 30	am. No. 87, 1988
	rs. No. 153, 1989; No. 9, 2000
	am. No. 84, 2006
s 30A	ad No. 84, 2006
	am No 34, 2018
s. 31	rep. No. 87, 1988
	ad. No. 153, 1989
	am. No. 146, 1999

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Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 9, 2000
s. 32	am. No. 80, 1982
	rep. No. 87, 1988
	ad. No. 153, 1989
	rs. No. 9, 2000
	am. No. 26, 2008; No. 58, 2011
s. 32A	ad. No. 153, 1989
	rep. No. 9, 2000
s. 33	am. No. 35, 1986; No. 153, 1989
	rs. No. 9, 2000
s. 34	am. No. 35, 1986; No. 87, 1988; No. 153, 1989; No. 28, 1991; Nos. 27, 43 and 60, 1996
	rs. No. 9, 2000
s. 34A	ad. No. 153, 1989
	am. No. 164, 1992
	rep. No. 9, 2000
Division 3	
Div. 3 of Part III	ad. No. 9, 2000
s. 35	am. No. 121, 1985; No. 35, 1986; No. 153, 1989; No. 43, 1996
	rs. No. 9, 2000
	am. No. 84, 2006
Note to s. 35(2)	ad. No. 2, 2011
Division 3A	
Div. 3A of Part III	ad. No. 2, 2011
s. 35A	ad. No. 28, 1991
	rep. No. 9, 2000
	ad. No. 2, 2011
Division 4	
Div. 4 of Part III	ad. No. 9, 2000
s. 36	rs. No. 117, 1984
	am. No. 153, 1989; No. 28, 1991

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Provision affected	How affected
	rs. No. 9, 2000
	am. No. 64, 2004
s. 36A	ad. No. 120, 1988
	rep. No. 9, 2000
s. 36B	ad. No. 120, 1988
	am. No. 153, 1989; No. 28, 1991
	rep. No. 9, 2000
s. 36C	ad. No. 28, 1991
	rep. No. 9, 2000
Part IV	
Heading to Part IV	am. No. 153, 1989
	rs. No. 9, 2000
Part IV	ad. No. 9, 2000
Division 1	
s. 37	am. No. 121, 1985; No. 153, 1989; No. 43, 1996
	rs. No. 9, 2000
	am. No. 5, 2011; No 62, 2014
s. 38	rs. No. 121, 1985; No. 71, 1989
	am. No. 153, 1989
	rs. No. 9, 2000
s. 38A	ad. No. 121, 1985
	rs. No. 71, 1989
	rep. No. 153, 1989
s. 38B	ad. No. 121, 1985
	rs. Nos. 71 and 153, 1989
	am. No. 94, 1992
	rep. No. 9, 2000
s. 38C	ad. No. 121, 1985
	rs. Nos. 71 and 153, 1989
	rep. No. 9, 2000
ss. 38D, 38E	ad. No. 121, 1985

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Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 71, 1989
	am. No. 153, 1989
	rep. No. 9, 2000
s. 38F	ad. No. 121, 1985
	am. No. 35, 1986
	rs. No. 71, 1989
	am. No. 153, 1989
	rep. No. 9, 2000
s. 38G	ad. No. 121, 1985
	am. No. 35, 1986
	rs. No. 71, 1989
	rep. No. 153, 1989
s. 38H	ad. No. 121, 1985
	rep. No. 71, 1989
s. 39	am. No. 117, 1984
	rs. No. 121, 1985; No. 153, 1989; No. 9, 2000
	am. No. 64, 2004
	rs. No. 84, 2006
s. 39A	ad. No. 121, 1985
	am. No. 35, 1986
	rep. No. 71, 1989
	ad. No. 153, 1989
	rep. No. 9, 2000
ss. 39B, 39C	ad. No. 153, 1989
	rep. No. 9, 2000
Heading to s. 39D	am. No. 60, 1996
	rep. No. 9, 2000
s. 39D	ad. No. 153, 1989
	am. No. 60, 1996
	rep. No. 9, 2000
s. 39E	ad. No. 153, 1989

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Provision affected	How affected
	rs. No. 94, 1992
	rep. No. 9, 2000
s. 40	am. No. 22, 1981; No. 117, 1984; No. 121, 1985; No. 35, 1986; Nos. 87 and 109, 1988; Nos. 71 and 153, 1989; No. 28, 1991; No. 43, 1996
	rs. No. 9, 2000
	am. No. 64, 2004
	rs. No. 84, 2006
s. 40A	ad. No. 9, 2000
	am. No. 64, 2004; No. 84, 2006
Division 2	
Heading to Div. 2 of Part IV	rs. No. 117, 1984; No. 153, 1989; No. 9, 2000
Div. 2 of Part IV	rs. No. 9, 2000
s. 40B	ad. No. 9, 2000
	am. No. 64, 2004
Notes 1, 2 to s. 40B	ad. No. 64, 2004
ss. 40C, 40D	ad. No. 9, 2000
Division 3	
Div. 3 of Part IV	rs. No. 9, 2000
s. 40E	ad. No. 9, 2000
Note to s. 40E(1)	ad. No. 2, 2011
Division 3A	
Div. 3A of Part IV	ad. No. 64, 2004
ss. 40EA, 40EB	ad. No. 64, 2004
Division 3B	
Div. 3B of Part IV	ad. No. 64, 2004
s. 40EC	ad. No. 64, 2004
Note to s. 40EC	ad. No. 2, 2011
s. 40ED	ad. No. 64, 2004
Division 4	
s. 40F	ad. No. 9, 2000

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Endnote 4—Amendment history

Provision affected	How affected
	am. No. 2, 2013
Subhead. to s. 40G(2)	am. No. 84, 2006
s. 40G	ad. No. 9, 2000
	am. No. 84, 2006
Division 5	
s. 40H	ad. No. 9, 2000
	am. No. 84, 2006
s. 40J	ad. No. 9, 2000
	am. No. 84, 2006; No. 54, 2009
Division 6	
s. 40K	ad. No. 9, 2000
Division 7	
s. 40L	ad. No. 9, 2000
	am. No. 84, 2006
Note to s. 40L(3)	rep. No. 84, 2006
Division 8	
s 40LA	ad No 84, 2006
	am No 3, 2011; No 34, 2018
s 40M	ad No. 9, 2000
	am No 84, 2006; No. 3, 2011; No 34, 2018
s. 40N	ad No 9, 2000
	am No 84, 2006; No 3, 2011; No 34, 2018
s 40P	ad No 9, 2000
	am No 84, 2006; No 34, 2018
s. 40PA	ad. No. 84, 2006
s 40Q	ad No 9, 2000
	rs No 84, 2006
	am No 34, 2018
s. 40R	ad. No. 84, 2006
	am. No. 3, 2011

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Provision affected	How affected
Part V	
Part V	rep. No. 9, 2000
	ad. No. 84, 2006
Division 1	
Heading to Div. 1 of Part V	rep. No. 87, 1988
	ad. No. 84, 2006
Subdivision A	
ss. 40RA, 40RB	ad. No. 84, 2006
Subdivision B	
s. 40RC	ad. No. 84, 2006
Subdivision C	
ss. 40RD–40RG	ad. No. 84, 2006
Subdivision D	
ss. 40RH–40RJ	ad. No. 84, 2006
Subdivision E	
ss. 40RK–40RN	ad. No. 84, 2006
s. 40RO	ad. No. 84, 2006
	am. No. 3, 2011
ss. 40RP, 40RQ	ad. No. 84, 2006
Division 2	
Div. 2 of Part V	rep. No. 87, 1988
	ad. No. 84, 2006
ss. 40SA–40SE	ad. No. 84, 2006
Division 3	
Div. 3 of Part V	rep. No. 87, 1988
	ad. No. 84, 2006
Subdivision A	
ss. 40TA–40TE	ad. No. 84, 2006
Subdivision B	
s. 40TF	ad. No. 84, 2006

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision C	
ss. 40TG–40TK	ad. No. 84, 2006
Subdivision D	
ss. 40TL, 40TM	ad. No. 84, 2006
s. 40TN	ad. No. 84, 2006
	am. No. 3, 2011
ss. 40TO–40TS	ad. No. 84, 2006
ss. 40TU–40TW	ad. No. 84, 2006
Subdivision E	
s. 40TX	ad. No. 84, 2006
Division 4	
ss. 40UA–40UD	ad. No. 84, 2006
Division 5	
ss. 40VA–40VH	ad. No. 84, 2006
Division 6	
ss. 40WA, 40WB	ad. No. 84, 2006
Division 7	
ss. 40XA–40XD	ad. No. 84, 2006
Division 8	
ss. 40YA–40YC	ad. No. 84, 2006
Division 9	
s. 40ZA	ad. No. 84, 2006
Part VA	
Part VA	ad. No. 71, 1989
Division 1	
s. 41	rep. No. 87, 1988
	ad. No. 71, 1989
	am. Nos. 147 and 153, 1989; No. 94, 1992; No. 20, 1997; No. 9, 2000; No. 84, 2006; No. 26, 2008; No. 58, 2011
s. 41A	ad. No. 9, 2000
s. 42	rep. No. 87, 1988

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Provision affected	How affected
	ad. No. 71, 1989
	rs. No. 147, 1989
	rs No 153, 2015
ss. 42A–42E	ad. No. 147, 1989
s. 42F	ad. No. 147, 1989
	am. No. 144, 2008
ss. 42G, 42H	ad. No. 147, 1989
s. 42J	ad. No. 147, 1989
	am No 59, 2015
Division 2	
s 43	rep No 87, 1988
	ad No 71, 1989
	am No 164, 1992; No 9, 2000; No 31, 2018
s 44	rep No. 87, 1988
	ad No. 71, 1989
	am No 147, 1989; No 164, 1992; No 9, 2000; No 31, 2018
s. 45	rep. No. 87, 1988
	ad. No. 71, 1989
	am. No. 147, 1989; No. 20, 1997
s 45A	ad No 147, 1989
	am No 123, 1991
	ed C62
s. 46	rep. No. 87, 1988
	ad. No. 71, 1989
	am. Nos. 147 and 153, 1989; No. 182, 1994; No. 167, 2012
s. 46A	ad. No. 147, 1989
s. 47	rep. No. 87, 1988
	ad. No. 71, 1989
	am. Nos. 147 and 153, 1989; No. 9, 2000
s. 47A	ad. No. 147, 1989
s 47B	ad No 147, 1989

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Endnote 4—Amendment history

Provision affected	How affected
	am No 20, 1997; No 5, 2011; No 31, 2018
Div. 3 of Part VA	rep. No. 84, 2006
s. 48	rep. No. 87, 1988
	ad. No. 71, 1989
	am. No. 9, 2000
	rep. No. 84, 2006
s. 49	rep. No. 87, 1988
	ad. No. 71, 1989
	am. Nos. 147 and 153, 1989; No. 9, 2000
	rep. No. 84, 2006
Division 3A	
Div. 3A of Part VA	ad. No. 147, 1989
s. 49A	ad. No. 147, 1989
s. 49B	ad. No. 147, 1989
	am. No. 20, 1997
ss. 49C, 49D	ad. No. 147, 1989
s. 49E	ad. No. 147, 1989
	am. No. 123, 1991
s. 49EA	ad. No. 123, 1991
ss. 49F–49H	ad. No. 147, 1989
s. 49J	ad. No. 147, 1989
	am. No. 123, 1991
ss. 49K, 49L	ad. No. 147, 1989
s. 49M	ad. No. 147, 1989
	am. No. 24, 2001; No 4, 2016
s. 49N	ad. No. 147, 1989
s 49P	ad No 147, 1989
	am No 20, 1997; No 31, 2018
ss. 49Q, 49R	ad. No. 147, 1989
Division 4	
s. 50	rep. No. 87, 1988

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Provision affected	How affected
	ad. No. 71, 1989
	rep. No. 147, 1989
Heading to s. 51	am. No. 9, 2000
s 51	rep No 87, 1988
	ad No 71, 1989
	am Nos 147 and 153, 1989; No 20, 1997; No 9, 2000; No 31, 2018
s. 52	rep. No. 87, 1988
	ad. No. 71, 1989
	am. Nos. 147 and 153, 1989
	rs. No. 9, 2000
	rep. No. 84, 2006
s. 53	rep. No. 87, 1988
	ad. No. 71, 1989
	am. No. 147, 1989
	rep. No. 153, 1989
s. 53A	ad. No. 147, 1989
Heading to s. 54	am. No. 84, 2006
s. 54	rep. No. 87, 1988
	ad. No. 71, 1989
	rs. No. 147, 1989
	am. No. 8, 2005; No. 84, 2006; No. 5, 2011
s. 54A	ad. No. 147, 1989
	am. No. 84, 2006
s. 55	rep. No. 87, 1988
	ad. No. 71, 1989
s. 56	rep. No. 87, 1988
	ad. No. 71, 1989
	am. No. 147, 1989
s. 57	rep. No. 87, 1988
ss. 58, 59	rep. No. 87, 1988

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Endnote 4—Amendment history

Provision affected	How affected
Part VI	
s. 60	rep. No. 9, 2000
s. 60A	ad. No. 153, 1989
	am. No. 124, 1994; No. 9, 2000; No. 64, 2004; No. 129, 2005; No. 86, 2006; No. 70, 2008; No. 127, 2010
Note to s. 60A(3)	ad. No. 129, 2005
s. 61	am. No. 164, 1992; No. 43, 1996; No. 9, 2000; No. 64, 2004; No. 3, 2011
s 62	am No 153, 1989; No 9, 2000
	rep No 137, 2000
	ad No 133, 2020
Heading to s. 63	rs. No. 64, 2004
s. 63	am. No. 43, 1996; Nos. 9 and 137, 2000; No. 24, 2001; No. 64, 2004
ss. 63A, 63B	ad. No. 64, 2004
s. 64	am. No. 164, 1992; No. 182, 1994; No. 43, 1996; Nos. 9 and 137, 2000; No. 64, 2004; No. 9, 2006
Heading to s. 64A	am. No. 9, 2000
s. 64A	ad. No. 22, 1981
	am. No. 43, 1996; No. 9, 2000; No. 24, 2001; No. 64, 2004; No. 3, 2011
s. 64AAA	ad. No. 64, 2004
Heading to s. 64AA	am. No. 9, 2000
s. 64AA	ad. No. 153, 1989
	am. No. 9, 2000; No. 9, 2006
s. 64AAB	ad. No. 64, 2004
s. 64B	ad. No. 22, 1981
	am. No. 43, 1996; No. 9, 2000; No. 64, 2004
s. 65	rep. No. 153, 1989
s. 66	rs. No. 153, 1989
	am. No. 9, 2000; No. 64, 2004
s. 67	am. No. 43, 1996; No. 84, 2006
	rs No 62, 2014

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Provision affected	How affected
s. 68	am. No. 69, 1980; No. 117, 1984; No. 121, 1985; No. 43, 1996
	rs. No. 9, 2000
	am. No. 64, 2004
s. 68A	ad. No. 155, 1979
	rep. No. 121, 1985
	ad. No. 64, 2004
	am. No. 2, 2013
s. 69	rep. No. 38, 1988
	ad. No. 9, 2000
s. 69A	ad. No. 9, 2000
Note to s. 69A(2)	ad. No. 2, 2011
Heading to s. 69B	am. No. 54, 2009
s. 69B	ad. No. 9, 2000
	am. SLI 2006 No. 50 (as am. by SLI 2006 No. 119); No. 84, 2006; No. 54, 2009
s. 69C	ad. No. 9, 2000
	am. Nos. 2 and 174, 2011; No. 74, 2013
s. 69D	ad. No. 9, 2000
Note to s. 69D(2)	ad. No. 2, 2011
s. 69E	ad. No. 64, 2004
s. 70	am. No. 35, 1986; No. 71, 1989; No. 43, 1996; No. 9, 2000; No. 64, 2004; No. 84, 2006
Part VII	
s. 72	am. No. 35, 1986
	rep. No. 9, 2000
s. 73	am. No. 80, 1982
	rep. No. 9, 2000
s. 74	rep. No. 87, 1988
s. 76	rep. No. 9, 2000
s. 77	am. No. 155, 1979; No. 121, 1985; No. 43, 1996; No. 9, 2000
s. 78	am. No. 35, 1986; No. 43, 1996

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 9, 2000
s. 79	am. No. 43, 1996
	rep. No. 9, 2000

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